



Paralegal Training Curriculum

Memo 2: USE THE LAW Providing Legal Assistance

As a paralegal you need to know:

1. Understand the process of legal case management and apply best practices and international protection standards
2. How to communicate effectively
3. Define the appropriate legal solutions

LEGAL CASE MANAGEMENT

Legal Case management is a modality and a technical way of organizing and delivering legal assistance activities to meet an individual's legal needs in an appropriate, systematic, and timely manner, through direct support and/or quality referrals, and in accordance with best practice and international protection standards. Legal case management involves an ongoing relationship with the client, individual and/or household, which forms a common thread throughout the provision of assistance.

Legal case management is a client centered process:

- Based on its environment
- Based on clients' strengths
- And taking into consideration traumas.

You will therefore need to take into consideration the following key elements:

- **Risk associated for the organization**, the paralegal or the beneficiary in pursuing formal or informal justice for this case.
- **Likelihood of success & impact for this case**: including previous case history, relevant laws, any evidence in support of the case. If high risks are identified, and very limited likelihood of success, it is not to say that the case shouldn't be supported but (i) the beneficiary should have all detailed and relevant information; (ii) safety planning could be developed; (iii) other legal solutions than Legal CM and other legal needs could be identified.
- **Individual strengths** (personal qualities, abilities and skills, preferences, values, attitudes) and strengths linked to the environment (resources, social network, opportunities, laws, culture, traditions)
- **Potential traumas**: ensure physical and psychological safety, choice (individuals have choice and control), collaboration to make informed decisions and share power, trust (incl. task clarity, consistency and interpersonal boundaries). Finally, prioritize empowerment and skill building.

3 Key questions to ask: BEFORE YOU APPROVE A CASE

- What is the purpose of the case and who will benefit?
- Safety: Are there any risks of harm to the client? Are we unintentionally doing harm by endorsing a practice?
- Any risk to IRC organization or staff?

Make sure that people can effectively access service without discrimination:

- **Ensure equity and non-discrimination** by organizing access in proportion to needs and eliminating barriers.
- **Take account of age, gender, disability, and diversity.**
- **Identify barriers** to access and put in place measures to remove/reduce them. Barriers can be social and behavioral, physical, related to access to information and communication or institutional.

Guiding principles to legal case management

- Confidentiality.
- Survivor centered support.
- Non-Discrimination.
- Informed consent.
- Do No Harm.
- Accountability.

Legal case management process:

- **Identification of clients:** in person, referrals, by phone
- **Introduction & Admission:** safe space, risk assessment, informed consent)
- **Assessment:** do they need case management and are you qualified? Use the assessment form.
- **Action Plan:** define the best legal solution to opt for, and agree with the client on action to take to solve the case, person in charge and tentative deadlines.
- **Case closure:** case is closed once the legal matter is solved and the action plan has been implemented. If the action plan cannot be implemented anymore, the client does not want to seek legal services after all or the client is not responding to calls anymore or showing up for meetings the case can also be closed.
- **Evaluation:** At the end of the process, and if the client agrees, conduct an evaluation of the legal services provided. For more neutrality a colleague or supervisor can be the one conducting the final evaluation to avoid any conflict of interest.

Closure should be documented in the case file by filling the case closure form and indicating the reasons for the end of the legal services to the client.

Eligibility criteria

- Ensure that cases you will support are in line with your knowledge and the type of case you can support – Refer to your paralegal manual and ensure that you have been trained on the issue.
- If this is a case you do not have all legal info to support, identify if you can have legal expert support/referral to help the case (i.e: INGO support; pro bono legal aid...) while you provide counselling and guidance.

Respect confidentiality

- Do not share any information without your client's informed consent.
- Collect, store, and share your client's information in accordance with data protection policies.
- Share only the minimum information required on a need-to-know basis.
- Data protection protocols define what information is to be shared, when and with whom.

Confidentiality has 3 main limits:

- When there are indications that a person is contemplating suicide.
- When there are indications that a person is planning to harm the safety of others.
- When a child is at imminent risk of harm.

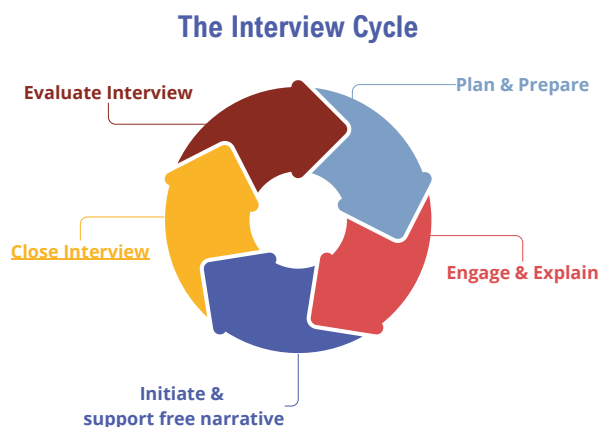
EFFECTIVE COMMUNICATION THE INTERVIEW CYCLE

Without being prescriptive, it can be helpful to keep these in mind to ensure quality of interviews with client. A good interview is adjusted to the client's needs.

Paralegals need to be intentional about the types of questions they ask to facilitate the conversation and make the exchange as effective as possible according to the purpose of the discussion/interview.

Effective communication & Key principle while conducting an interview with a client:

- Respect
- Transparency
- Dignity
- No prejudices.
- Active listening
- Trust.



Remember avoiding biases and prejudices is essential to effectively provide Case management:

We all have a world view which shapes the way we see the world

Implicit bias is generated in three main areas of the brain

The more we are able to recognize bias the more we can work toward creating new pathways in our brain.

Implicit bias negatively affects our work with clients

Through self-awareness, empathy, information, mindfulness & self-reflection we can try to address it

Open / Closed questions

An open-ended question is one that cannot be answered with a simple "yes" or "no" answer or just a few words. They give a wider picture of the problem. To get important specific details ask questions that start with: when, where, how, why, who, e.g. Who saw you being beaten? What were they doing? Both are important to use for effective communication while recognizing that they do not serve the same purpose:

Open questions can enhance trust and free narrative as the interlocutor will share his/her perspective with details of their choosing. This has the advantage of giving you information to build on to ask follow-up questions and get an overview of the situation.

Close questions support to probe ideas, if necessary, it also can be a way to start building the trust by not being too intrusive and let the interlocutor to add more details.

Ask additional question to deep dive into information:

- **Question for clarifications:** Can be more specific? Can you tell me more? What is the answer which is the closest to what you feel? What is your best estimate?
- **Questions to add:** Something else? Tell me more.
- **Other questions:** Repeat questions or echo questions.

Sensitive topics.

During interviews clients might share sensitive information and talk about sensitive subject which can be unsettling. It is important to acknowledge it to be able to react appropriately and let the clients share what they have to share without losing the objective of the interview.

- Acknowledge that the subjects are sad, explain that crying is normal and expected.
- Don't try to get the participant to stop crying.
- Thank the participant for being so open and confident in sharing.
- Ask them if they would like to take a break or continue.
- During the interview, try to manage your own reactions - it's normal to feel sad (and to say so), but it's best not to divert the participant's attention.
- After the interview, debrief with the supervisor.

How to stay on topic?

One of the major difficulties during an interview is to ensure that the client stays on topic and do not deviate too much for you to gather the right information to provide legal services. A few tips to stay on topic can be:

- At the start of the interview, explain that time is limited while there is a lot to say.
- Thank you in advance for understanding if I bring you gently back to the subject in question'.
- Thank the participant for speaking and acknowledge the importance of what they are saying. Then try to make the link with the questions: "what you are saying is very relevant to the next question... or perhaps we can come back to this subject at the end of the interview?"

Use the right level of understanding

Interview people in their own language. People find it much easier to talk to you about their problems in their own language. This makes them feel more at ease and better able to explain themselves. Confusion and misunderstanding often arise when someone has to explain a problem in another language.

If you need a translator, he or she should have a good understanding of both languages, and a basic knowledge of the law. Don't forget to ask for the client's consent for the presence of a translator.

It's important that the person or people you're trying to help can understand your words and phrases correctly. If you don't explain things simply and in a way that's easy to understand, you won't help your client. Your client won't learn anything from you and won't be able to help you solve the problem.

Here are some examples of language problems:

- Difficult legal terms, such as substantive, prescription, discretionary, etc., is a key factor in the success of a project.
- Complex explanation to explain a difficult word e.g. explaining that a restraining order is "a civil remedy requiring the wrongdoing party to refrain from harming the plaintiff" is not as easy to understand as saying that a restraining order is "a special type of court document you can obtain to protect yourself from harm".
- Foreign or Latin words, e.g. quid pro quo, inter alia, vis-a-vis.
- Jargon - words that are generally clear only to a certain group of people.

EFFECTIVE COMMUNICATION

Do's

- Be respectful.
- Be aware of how you are sitting.
- Leave time for questions and comments so that the session is a two-way exchange of information.
- Remain calm and attentive and make the client feel you are interested in his/her story.
- Be patient. Sometimes clients do not answer questions directly and rather tell several stories.
- Try to ask questions that will draw out information about the crux of his/her complaint.

Don'ts

- Show your mobile phone. Keep it out of sight in your pocket or bag.
- Take photos of people or property without the express consent of the people or owners concerned.
- Stay if you feel unsafe or uncomfortable during a visit.
- Do not show that you do not agree with what the client is saying, or roll your eyes, yawn or multitask etc.
- Avoid judgement e.g telling the client 'But a woman should not separate from her husband'.
- Do not raise the client's expectations beyond what is realistically achievable.

PLAN FOR LEGAL SOLUTIONS

Legal advice

What is legal advice?

Giving detailed legal information tailored to a specific individual or group's legal issue.



If legal counseling is delivered as a standalone service paralegal should at minimum provide this level of information:

- Confidentiality and limit to confidentiality related to certain issues (e.g.: related to mandatory disclosures of abuse).
- Role and responsibilities of the legal counselor.
- All existing legal avenues for a specific legal issue.
- All possible outcomes that result from each legal avenue, including relevant risks.
- The entire procedure that goes with each avenue including cost, time etc.

Whether legal counseling is stand-alone or part of case management depends on the client: legal counseling may be enough to help a client resolve their legal issue without further assistance. If further assistance is required, legal counseling will be folded into the overall case management approach.

Legal counseling is the lightest touch form of legal assistance; it is usually the most useful for individuals with lower levels of risk/vulnerability. Legal counseling might also alert clients to the fact that they need further assistance, and create entry points for legal case management.

Tips for Effective Legal Advice

- Legal counseling can be delivered by Legal Officers, Protection/Information Officers, Paralegals or Lawyers – depending on the complexity of the legal issue, staff capacity levels and national legal rules. In your assessment for design, determine what types of legal topics IRC staff/partners at different capacity levels will be able to support.
- Legal counseling at the IRC is NOT Legal Advice: legal counseling is not about telling someone what they SHOULD do, but rather, what someone COULD do in their particular circumstances. Legal counseling usually will not require a power of attorney, while legal advice (what someone SHOULD do) usually will. If someone is interested in receiving support in taking their case forward, legal teams must determine their eligibility to receive legal assistance through case management. See next section, on Legal Case Management.
- Most commonly, opportunities for legal counseling arise at the end of legal information activities, as people will want to know how the information applies to their particular circumstances. As you are designing your legal information materials, think ahead to which groups/individuals may require more detailed or specialized explanations of how these issues can be resolved in practice. Are there specific considerations for age, gender, diversity and/or ability, geographical specifics or important additional requirements for certain groups? What will legal teams need to have ready to be well prepared for legal counseling activities?
- To support paralegals and other staffs in providing legal counselling it might be interesting to develop Memos by topics with key exploratory questions to ask a client to be able to tailor information to their needs.

Draft legal or administrative documents

Legal work entails drafting legal documents and administrative documents. Paralegals might therefore collect information which might serve legal document drafting but most often paralegals are instrumental to fill in an accurate manner administrative documents supporting legal processes.

One of the biggest barriers to access to justice and exercise of rights lies in the lack of understanding of administrative steps and processes as well as illiteracy preventing clients to correctly navigate laws and requirements and therefore exercise their rights. Paralegals can support community members to overcome these difficulties.

To provide quality support paralegals need to know about processes and required valid documents to add to the file to be eligible to processes.

As part of a legal process legal professional might need to draft:

- Contracts and agreements
- Legislation and regulations
- Pleadings and legal documents
- Legal opinions and memoranda
- Wills, estate planning documents
- Intellectual property documents.

Paralegals must also be very detailed oriented in filling documents required by the administration to ensure success of the process.

Key elements of legal documents drafting

- Accuracy
- Content consistency
- Consistency and formatting
- Legal documents aren't (and shouldn't be) drafted in a vacuum.
- Digging deeper without the rabbit holes

Key steps in drafting legal documents

Drafting legal documents involves the meticulous crafting of written materials to accurately reflect legal agreements, rights, obligations, or positions.

1. Outline the purpose and scope of the document; identify parties involved and define their roles and responsibilities; and list the desired outcomes.
2. Conduct thorough research on relevant laws, regulations, precedents, and legal principles that pertain to the subject matter of the document.
3. Create an outline or framework for the document to include definitions, parties, terms, rights and obligations, enforcement provisions, and signatures.
4. Use plain language wherever possible, define technical terms, and ensure that the intended meaning is unambiguous.
5. Address all relevant terms, conditions, rights, and obligations in the document. Anticipate potential issues or contingencies and include provisions to address them. Avoid vague or overly broad language that could lead to interpretation disputes.
6. Ensure that the document complies with any legal formalities or requirements applicable to its execution and enforceability. This may include signature requirements, notarization, witnessing, and specific formatting or language requirements.
7. Review and revise the draft multiple times to remove errors, improve clarity, and strengthen the document's effectiveness.
8. Include provisions for termination, amendment, dispute resolution, and governing law to address potential changes or conflicts.
9. Once the draft is finalized, obtain approval from all relevant parties, and ensure proper execution of the document according to legal requirements.
10. Seek the help of service providers who offer specialized legal writing services.

Accompaniment to institutions or administrative services

As for legal/administrative documents clients might sometimes need a physical presence to visit institutions or administrative services they need to interact with to exercise one of their rights.

- Navigating authorities means helping a client deal with some institution of authority, such as the police, a government ministry/service, or a chief.
- Although in some instances it may be enough to simply refer a client to a relevant institution, a more active approach is often necessary.

Assistance in navigating authorities is especially valuable if the institution in question is:

- Complex
- Prone to abuse
- Corruption
- Inaction.

The paralegal must know the rules and workings of the institution and must be a strong advocate and negotiator.

An effective paralegal should be able to ensure that institutional representatives like police officers, teachers, health providers, or government workers perform their jobs to the satisfaction of the paralegal and his or her client.

It is important to include as part of the accompaniment options the provision of representation/support in interacting with informal justice process. Informal justice might be a standalone justice system or an embedded in the formal system. For the same reasons as mentioned above it might be important for a paralegal to support clients in navigating such processes building on relationships creating with informal justice stakeholders.

Legal representation within informal justice system

Paralegals can provide legal support in informal justice settings by assisting clients in presenting their cases before local leaders, community tribunals, or other non-formal dispute resolution mechanisms. They play a critical role in ensuring that vulnerable individuals have access to fair processes.

In situation, where informal and traditional norms prevails, the community paralegal can play a key role to influence decision making because :

- They are part of the communities and are trusted by the community members and can have an influence.
- They know both the traditional norms and the formal law and can use this knowledge to influence a better link and accordance in decision making between those 2 legal framework.
- They have been trained and empowered to talk in front of decision maker and are often more listen to to represent the most vulnerable in their communities
- They have been trained on international legal framework and human rights and they are passionate about equal justice and support the most vulnerable and therefor can influence a more protective environment for all.

Key messages

As paralegal you have an expertise in formal and informal law and justice and you are the best placed to directly support case in front of informal justice.

You have the knowledge of the law which gives you legitimacy and more power to defend and influence for more equal justice, particularly within informal justice processes.

Mediation

In addition, paralegals can facilitate mediation between conflicting parties, helping them reach mutually acceptable agreements (see Module 5 and Module 13 for detailed guidance on mediation techniques). Mediation can be especially effective in resolving family, property, or minor civil disputes without escalating the matter to formal courts.

As paralegal you can directly provide mediation if you are the best person to do so (no conflict of interest; seen as neutral; identified power dynamics where no parties could be influenced to accept something that deserve him/her)

REMEMBER : Mediation is NEVER appropriate for criminal cases.

Referral to lawyers or formal justice authorities

When a case exceeds the paralegal's scope of work or requires formal legal expertise, referrals to qualified lawyers or legal aid organizations should be made. Effective referrals ensure that clients receive the necessary legal representation in formal justice systems.

It is essential that paralegal build a strong network with legal justice actors both formal (i.e: local police; lawyer...) and informal to know how to leverage their influence and power to support a cases.

- **For criminal related cases**, your collaboration and linkages with formal justice, particularly relevant person (and ally) within police station can be a strong tool.
- **Follow-up is a crucial aspect of paralegals' work.** After a referral or mediation session, paralegals should stay in contact with clients to monitor the progress of their cases and offer additional support if needed. Consistent follow-up helps build trust with the community and ensures that clients do not face unnecessary delays or obstacles in accessing justice. (See Memo 9.1 for more details)