

Taking a statement

(A resource for community advice offices and community-based paralegals brought to you by NADCAO, from the Paralegal Manual published by the Education and Training Unit and the Black Sash.)

A statement is necessary because it helps to keep a record of a client's case. The statement is recorded on a case sheet which is a standard question sheet and this is kept in the client's file. You will do all of your work on the case using the information you wrote down in the first statement and it is therefore very important for you to write down accurate and complete information. The statement is divided into four parts:

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

Personal details of the client

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

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

Description and details of the problem

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

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

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

A resource for community advice offices and community-based paralegals brought to you by NADCAO, from the Paralegal Manual published by the Education and Training Unit and the Black Sash.

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

Example

- on 16 December 2009 Sara was dismissed from her job
- on 17 December she returned to get her notice pay
- on 20 December she went to the union about her dismissal, etc

Advising the client

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

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

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

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

Taking action to solve the problem

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

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

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

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

Example of a simple case sheet

HOPETOWN ADVICE CENTRE

Date :.....

Physical address:.....
.....

Postal address:.....
.....

Telephone number:

Age:.....

Type of case (eg labour):.....

Description and details of the client's problem:
.....
(give this section plenty of space)
.....
.....
.....
.....
.....
.....
.....
.....
.....

Advice or suggestions given to the client:
.....
.....
.....

Action taken on behalf of the client:

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

Example of a statement

Statement

1. My name is Benjamin Ngwane. I am a 30 year old male living at 52 Indwe road, Langa, Cape Town. I am unemployed.
2. On Monday 26 September 2002, at about 8 p.m. I was walking on my way home after visiting a friend. I was walking alone on the pavement past Kentucky Fried Chicken.
3. A group of men crossed the road and came towards me. I recognised one of them. His name is Patrick Xegwana. He lives a few streets away from me in Pele Street.
4. The group stopped me and Patrick Xegwana grabbed me by my shirt and asked me where I was going.
5. I tried to answer that I was going home but before I could finish, Patrick Xegwana slapped me on my left cheek with his left hand.
6. One of the other men assaulted me by punching me in the stomach and kicking me where I lay on the ground. He was wearing a dark blue overall which was very torn. He was also wearing glasses. I recognised this man's face although I do not know his name. I also don't know where he lives. He is about 30 years old. I would recognise him if I saw him again.
7. I think there were five men altogether. I do not know the names of any of them except for Patrick Xegwana, but I recognised all of their faces. I would recognise them if I saw them again.
8. They were all crowding around me while I was lying on the floor being assaulted by the man in the blue overall. One of the men had a gun and was poking it in my side. I was very scared and I didn't say anything to them. They did not say why they were assaulting me. They only told me that I must not come near their area again.
9. Everything was happening so quickly. The last thing I remember is a hard blow on my head.
10. I was dizzy at the time and only remember being picked up. I was looking around to see where the men were, but they were gone. One of the people helping me was a man called Vuyani. He telephoned the Langa Day Hospital. They sent an ambulance to come and fetch me.
11. In hospital I was treated for two broken ribs, severe bruising all over my body, and my eye was bleeding. I had to stay in hospital for 3 days. My hospital card number is 5487. I was treated by Dr Wyngaard.
12. I do not know if there were any witnesses to the assault on me. I do not know if Vuyani witnessed the whole assault on me.
13. I do not know why I was assaulted by the group. I feel that I have been wronged and I want to make a claim against the people who assaulted me.

Date on which the statement was taken: 28 September 2009

Name and address of person who took the statement:

Lawrence Ndlovu
c/o Langa Advice Office
Cape Town telephone number of Langa Advice Office: (021) 642 0202