

**Community Law Centres** o Aotearoa (CLCA) CEO Elizabeth Tennet says that community law ultimately serves to promote and directly provide access to justice.

There's a possible misconception that community law cuts the profession's lunch, she says.

"We're talking about providing free legal advice. It's about providing services to people who do not qualify for legal aid and who couldn't otherwise afford a lawyer.

"In the instance our clients could afford a lawyer, we refer them on to private lawyers. The reality is that if we weren't there, there would be tens of thousands of people who wouldn't have access to legal services."

She says community law centres provide free legal services to the most vulnerable in the community.

Most of the work is around civil law – family, employment, tenancy, dealing with debt – and so clients are not usually eligible for legal aid funding, Ms Tennet says.

"[Clients] often have a multiple number of legal problems, which if not solved can lead to increased alienation from society and possible criminal activity. The legal assistance and education programmes we deliver assist people to know and access their rights. We help to keep people out of the court system.

"It is an important tenet of a civilised society that all its citizens have access to justice. Deny it, and civil society pays, one way or another.

"People educated in the law know this to be true. That's why community law receives such wonderful volunteering support from the law profession, with 10% of the profession volunteering at a community law centre at any one time. It enables us to deliver access to justice for the most vulnerable."

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**Funding is a problem**, she says.

"We have had the same funding for eight years and this is really affecting our ability to provide all the services that are needed in the community to be able to deliver access to justice."



▲ Elizabeth Tennet, Community Law Centres o Aotearoa CEO.

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About half of community law funding comes directly from Government taxpayer funding, Ms Tennet says.

The rest is made up by way of a the Lawyers and Conveyancers' Special Fund, comprising 60% of the interest on funds held in solicitors' nominated trust accounts, which is forwarded to the New Zealand Law Society for vetting before being sent to the Ministry of Justice to fund community law.

The other 40% is retained by the banks, Ms Tennet says.

"Community law thinks the banks should lower their retention to 20%, recognising their declining cost of administration due to advanced computerised collection, and donate the other 20% to community law."

BNZ and TSB have agreed to lower their retention to 20% and they are asking ASB, ANZ and Westpac to follow suit.

"It is our opinion the banks have a moral obligation to assist community law out of its funding straitjacket. "At a time of huge profit rises for the banks they need to recognise they are part of a civil society that is made more healthy by all its citizens having access to justice. They can support this by supporting the NGO whose prime focus is to deliver access to justice for the most vulnerable."

Ms Tennet says CLCA is therefore supporting a member's bill created by Labour MP Jacinda Ardern that aims to regulate bank assistance.

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**Labour's Jacinda Ardern** says the Labour Party has long supported the work of community law centres.

"They have become a critical part of our justice system, and our existing 'access to justice issues' would be even worse without the CLCA network. We are worried, however, that the static funding for community law centres means they are not working with as many people as they otherwise might, and they are consistently being asked to do more with less."

In recent years, community law centres have experienced significant fluctuations in the amount of funding they receive via the Special Fund, due in part to changes in the Official Cash Rate and the housing market, she says. The bill she has drafted seeks to protect community law centre funding, and provide consistency across the banking sector, by amending the Lawyers and Conveyancers Act 2006 so that the amount of interest retained by banks from the "Special Fund" is reduced to 20%.

"It is, however, a member's bill, so once it is submitted, it will be up to the luck of the draw as to whether it proceeds. Ultimately, it is my hope that the remaining banks will voluntarily move on this issue. It would make a massive difference."

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**ASB corporate communications** general manager Christian May says community law centres do important work in the community and they understand the challenges that are posed by their current funding model.

"We have received and are considering a proposal from Community Law Centres o Aotearoa for supplementary funding."

ANZ communications senior manager Stefan Herrick says it's vital to a fair and just society that everyone – regardless of what they can afford – has access to quality legal advice.

"Community law centres play an important role not only in making legal services available to a wide range of people and community groups, but also raising awareness of legal issues and the rights enshrined in the law.

"While we applaud the great work of community law centres, and the dedicated work of those who work to make quality legal advice freely available, it seems strange that banks have been, and continue to be, asked to fund community law centres."

Community law centres are caught in a difficult situation where Government funding hasn't increased to meet the increase in the demand for their services, he says.

"This funding arrangement using solicitors' trust funds was established to allow community law centres to receive 60% of interest payments on accounts that don't normally attract interest. The payments banks make are, in effect, an annual grant to community law centres.

Any shortfall in community law centre funding should be met, as it historically has been, by the Government, he

“Community law centres ... have become a critical part of our justice system

“Effective access to justice requires a range of legal services ... and community law centres play an integral role in this

says. "We're happy to continue to discuss the matter with community law centres."

Westpac did not respond to *LawTalk's* request for comment.

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**Meanwhile, Associate Minister** of Justice Simon Bridges says community law centres provide an important service, facilitating access to justice.

"Effective access to justice requires a range of legal services, from information and advice through to representation in the courts, and community law centres play an integral role in this continuum."

Mr Bridges agrees that CLCA fills a gap with regard to access to justice.

"Community law centres are contracted to provide community legal services where there are no other services to meet the need. These services include providing legal information, education, advice, and assistance. "They operate in conjunction with other community services such as those provided by Justices of the Peace, for example, in certifying documents and holding public clinics. And community law centres complement more targeted services such as legal aid."

Since 2008, the Government has provided additional funding on a year-by-year basis to ensure funding for community law centres has remained stable at around \$11 million, he says.

"This approach has ensured community law centres have received the same level of funding despite fluctuations in the Special Fund. Stable funding has ensured that individual community law centres have some certainty around their income and can plan to deliver services within their budget.

Otherwise, Mr Bridges says direct negotiations with banks to reduce the percentage of the Special Fund that they retain is "obviously a good result".

But "the Government does not see a need or have any plans to amend the Lawyers and Conveyancers Act" as per Ms Ardern's proposed member's bill, he says.

## New Māori coordinator

**In his annual** chair's report, CLCA Board Chair Cameron Madgwick remarks that a major achievement of 2014-2015 was the start of a "journey of transformation into a bi-cultural organisation".

The CLCA national hui was themed "poipoia te kakano kia puawai" – nurture the seed and it will blossom, and Māori





▲ Julia Whaipooti, Community Law Centres o Aotearoa National Māori Co-ordinator/Kaitakawaenga

representation was cemented in governance and management positions, notably with the election of Bernadette Arapere as Māori Co-Chair on the CLCA Board, Mr Madgwick says.

And for the first time a Kaitakawaenga, or National Māori Co-ordinator, was employed to encourage contact between CLCA and Māori communities.

"We recognise that Māori have a high level of unmet legal need and we want to ensure Māori know how to, and feel comfortable, accessing our services," he says.

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**Julia Whaipooti** has been in the new role of Community Law Centres o Aotearoa National Māori Co-ordinator/Kaitakawaenga for less than a year.

"Despite the services being free, we are at present not reaching our Māori clients in proportion to their need. We have to ask ourselves what the barriers are for our people and how we can engage more with our communities.

**"We recognise that Māori have a high level of unmet legal need and we want to ensure Māori know how to, and feel comfortable, accessing our services"**

"In creating this role, CLCA has shown a substantive commitment to this fact and in doing so has equally recognised the status of Māori as tangata whenua," Ms Whaipooti says.

"We need to understand what we are doing and what we are not doing that keeps Māori communities from accessing us. The simple fact that the law is structured on the premise of working with individuals rather than whanau, let alone hapu and iwi level, presents a structural barrier for Māori in and of itself."

Ms Whaipooti says that her role is to help law centres develop the tools to work effectively with Māori.

"To understand how to go about doing this we need Treaty Training, cultural competency training, to look at how our governance and staffing structures are operating."

She believes there is a challenge for the broader legal profession.

"Legal volunteers play a huge role for the movement generally," she says. "The constraints presented are our big cities have access to a larger volunteer base. If you're working in our rural towns, the profession can help by volunteering with our centres. However, in terms of breaking down the barriers for Māori to access us, it also requires us to think more broadly about how we train our volunteer lawyers and students to work with Māori. Currently the way the law is taught and practised does not have this as a priority."



▲ John Worden, Treasurer of the national CLCA Board

Building external relationships with Māori organisations on a local and national level is essential, Ms Whaipooti says. Ensuring community law is present on a national level, from ensuring a presence at Te Matatini (the Kapa Haka Nationals that attract 30,000 visitors), engaging with Iwi Justice Panels, working with the Māori Law Review, and the Māori Law Society are all ongoing relationship-building.

“However, the solution to improving our work with Māori is not a one size fits all model with our centres. We are assessing how we can work more closely with local hapū and iwi to improve accessibility to our services for Māori communities.”

Before taking up this role, Ms Whaipooti worked as a community lawyer at a community law centre. The move was a natural progression, she says, and in the new role she is able to continue to be committed to improving the status of Māori.

Frontline work as a community lawyer meant Ms Whaipooti saw people struggling with their problems first hand.

“Often you find people coming in who are angry or at least have trouble articulating what their problems are. The reality is the struggle faced by many of our clients reflects broader systemic problems in New Zealand. The fact that our services are free means we can assist people who otherwise cannot afford legal advice and effectively are shut out from knowing their rights,” Ms Whaipooti says.

“I’m really driven by the hideous statistics where Māori are disproportionately represented in new Zealand’s negative statistics

“I’m really driven by the hideous statistics where Māori are disproportionately represented in New Zealand’s negative statistics. It gives me energy and I’m passionate to do something about it. In this role, it’s my job to make sure that the Community Law movement can better meet the unmet legal need for Māori,” she says.

“It can be hard to quantify what success means for our clients when just feeling they are being listened to can be rewarding, to more tangible outcomes like wiping a \$6,000 debt from a loan shark. It’s beyond the legal paradigm of billable hours and justifying work. I believe in the community law movement and within this role increasing its potential to further engage on the work with our Māori communities.”

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**John Worden** is Treasurer of the national CLCA Board, and Chair of the Hawke’s Bay Community Law Centre, which he says is representative of a “typical small regional law centre”.

He says a long management career in various positions for the RNZAF, including his



most recent role as Deputy Chief of Air Force, as well as six years working for the Legal Services Agency and Ministry of Justice, provided the knowledge and skills he needed to help govern and administer the national network of 24 community law centres.

But Mr Worden's passion for community law comes simply from helping people to solve their problems.

"A key motivation [for my involvement with community law] is a desire to directly help those in the community who have limited capacity to resolve problems they encounter.

"While community law staff enjoy the challenge and interest of the legal transaction, their motivation and reward comes from their interaction with someone who really needs their help, and seeing the immediate impact of their assistance on the client.

"Many lawyers in private practice also help those who cannot afford a lawyer, through their willingness to take on legal aid work, and the pro bono work they do within their communities for law centres or on their own behalf.

"However, the 24 law centres saw 52,498 clients who might otherwise not have had their problems addressed this past year. The effect on community well-being is visible, and that is the fuel that sustains community law and all of us that give our time to it."

## Governance at a glance

**All 24 community** law centres are independent community charitable organisations, which deliver legal services to those who cannot afford to see a lawyer, Mr Worden says.

Each centre holds a separate contract with the Ministry of Justice for the delivery of community legal services in their region. Each trust or incorporated society has its own Governance Board.

The 24 centres created CLCA as a representative body, to represent their collective interests and to facilitate mutual support, sharing of resources, and collaborative activities to ensure that those in need can access their services.

CLCA members have elected a board to direct CLCA's activities. This board is structured to equally represent Tangata Whenua and Tangata Tiriti and comprises of four members elected from governance of law centres, two independent members from outside the law centre movement, and two management representatives.



▲ Jennifer Braithwaite, YouthLaw board chair.

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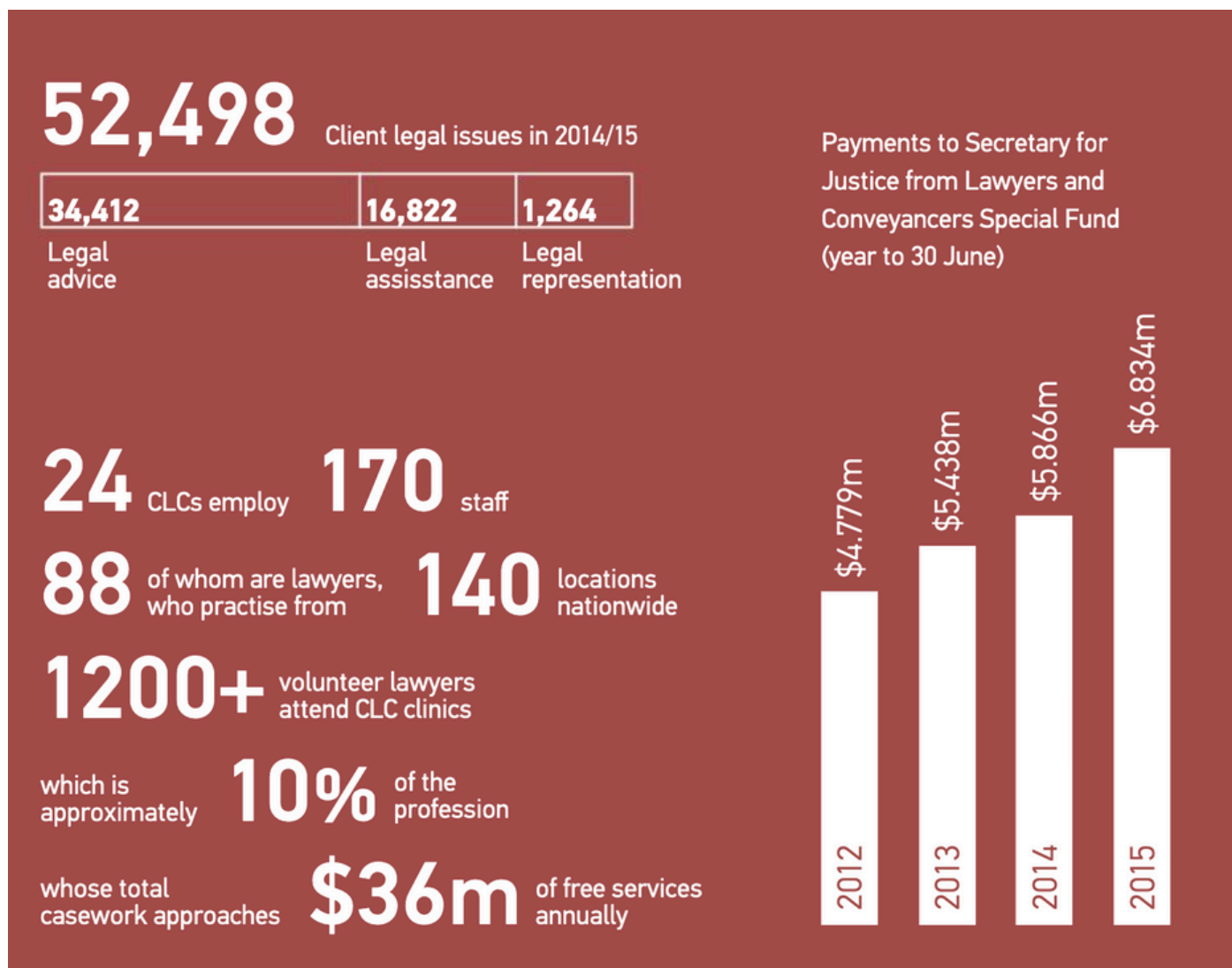
## YouthLaw – Community Law services for under-25s

**YouthLaw specialises** in the areas of law that particularly affect children and young people (under 25 years old). Commonly, this involves education law, special educational needs provision and youth employment.

"We also specialise in how to deliver legal services to children and young people so they can understand and relate to the process," says YouthLaw Board chair Jennifer Braithwaite.

"This includes how to engage with children and young people to provide one-on-one advice and how to present legal information to groups of young people in schools, CYFS residences or alternative education providers."

Ms Braithwaite's involvement with Community Law, like many other volunteers, began during her student years at Otago University, working with the Dunedin centre. Back then, an under-25-year-old "youth" herself, she also volunteered with YouthLaw – and since 2010 she has been at the helm of the growing service, steering it into the future. Directed towards helping tech-savvy digital natives (naturally, all those under 25) with their legal issues, YouthLaw



maintains an online presence, has developed several animated clips to explain legal rights and obligations, and has even created a smartphone application that puts legal information in the hands of young people instantly and easily, in a medium with which young people are most familiar and comfortable.

"A large part of YouthLaw's case work relates to education law, including situations relating to suspensions, exclusions and expulsions, enrolment issues, special education related matters and discrimination," she says.

"We also deal with a range of other issues ranging from tenancy, family, employment and minor criminal matters.

"Of the education cases we advise on, an increasing number have involved special education needs.

"Access to education is about more than attendance. It's about engaging with meaningful education or education that is tailored to needs. At a high level this requires consideration of appropriate special education funding in terms of the amount funded as well as the structure for allocation and reporting.

"At an individual level it means families, schools and others involved in supporting young people, planning and working together to truly give meaning to this right."

**“Children and young people are the most vulnerable in our communities**

Children and young people are the most vulnerable in our communities, Ms Brathwaite says.

"They may be too young to know what's going on around them or lack the ability to make their voice heard. They may struggle with knowing where to find the right help or with understanding advice or information they are given if it is not presented in the right way."

As for many services built on goodwill and best intentions, funding presents a challenge for YouthLaw, which directly assisted more than 1,300 young people with their legal issues in the 2014-15 year. "Like many other organisations in the community sector, since the GFC [global financial crisis] we have had considerable uncertainty in relation to our ongoing funding. Our core services are partly funded through the Special Fund and partly by the Ministry of Justice. This amount has not changed since 2008 yet our costs and demand continue to



increase,” Ms Braithwaite says.

“We do not charge for any of our services but rely on funding and donations of time and money to ensure we can continue our important work for New Zealand’s young people.

“YouthLaw and the other community law centres around Aotearoa welcome support from anyone who wants to support our mission. You can go to [www.youthlaw.co.nz](http://www.youthlaw.co.nz) or [www.communitylaw.org.nz](http://www.communitylaw.org.nz) for more information.

My experience has been that I get so much more out of working in community law than I put into it.

“It is an opportunity to be part of creating real change in our communities and you get to work with some incredibly talented, committed and inspirational people.”

## Auckland Disability Law

**Auckland Disability Law** (ADL) is operated by one full-time and four part-time staff, including two solicitors, a community worker, an administrator and full-time manager, several of whom have personal experience either living with a disability or supporting loved ones who do.

Manager Sue Plowman says much of ADL’s legal case work involves the discrimination that disabled people experience. Specialist legal advice is commonly provided relating to employment, housing, and physical access to services (health, justice, etc) law. ADL handles over 200 individual cases each year, she says.

“One of the projects we are doing this year with funding from Ministry of Social Development, and in partnership with the Office of Disability Issues, is running a national conversation on supported decision-making (SDM) for disabled people,” Ms Plowman says.

“SDM is about enabling disabled people to make choices and have control over their lives, on an equal basis with others,” she says with the United Nations Convention on the Rights of People with Disabilities (UNCRPD), she says.

“The disabled people most impacted by experiences of diminished competence in decision-making, who are this project’s focus, are people with learning disabilities, experiences of mental illness, experiences of dementia, and people with other kinds of impairments that limit their ability to communicate, understand or retain the information necessary for decision-making.”

“My experience has been that I get so much more out of working in community law than I put into it

## Meeting disabled client’s needs

**Martine Abel** has chaired the ADL Board for some seven years in addition to her day job as specialist advisor at the Auckland Council.

Martine is blind. She owns a guide dog called Westin. Ms Abel describes ADL’s core business as meeting the “unmet legal needs of disabled people” and addressing wider access to justice issues faced by disabled persons. While many community law centres might assist disabled clients, ADL specialises in disability law in particular, and often co-ordinates with CLCA nationally to provide advice and support on issues relating to disability law. Employment is an area of law that often involves the rights of disabled people, she says.

“Employers do not seem to deal very well with people who do become disabled, in terms of job retention. “And there are still issues around the employment of disabled persons and large-scale discrimination taking place.”

Such discrimination is often obscured by “lame excuses”, Ms Abel says, because employers “realise they can’t put in writing that they don’t want to employ a disabled candidate”.

▼ Martine Abel, Auckland Disability Law board chair.

