



Annual Report

July 2016 – June 2017

**Celebrating 30 years working
for children and young people**

**YouthLaw Aotearoa
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YOUTHLAW VISION

A fair and just Aotearoa in which children and young people's rights are respected and their voices are heard

THREE YEAR STRATEGIC INTENT 2017- 2019: By the end of 2019

YouthLaw will be **nationally recognized** as an **innovative specialist** in children and young people's rights that **drives systemic change** and provides **accessible** information, advice, training and support to **empower** children and young people, and those working with them

KO NGĀ RANGATAHI TE TOKOMANAWA O A TATOU MAHI /

YOUTH AT THE CENTRE OF OUR WORK

YOUTH VOICE – YouthLaw uses continuous and systematic methods to seek the views of diverse young people and their voices routinely inform our work.

YOUTH IN NEED - YouthLaw uses evidence to effectively target the unmet legal needs of the children and young people who need legal help the most.

MĀORI YOUTH - YouthLaw effectively targets the unmet legal needs of rangatahi Māori.

KOTAHITANGA / COLLABORATION

NATIONAL IDENTITY YouthLaw explores and initiates opportunities to develop our coordination role throughout Aotearoa.

LAW REFORM YouthLaw coordinates a pro-active law reform agenda informed by youth and developed in partnership with other community law centres, youth organisations, government departments and key stakeholders.

COMMUNITY LAW PARTNERSHIPS YouthLaw works together with other community law centres as part of a cohesive national network.

LAW RELATED EDUCATION LRE is promoted and delivered nationally through strong collaborative relationships with community organisations.

RAUKAHA / CAPACITY

RESOURCING YouthLaw accesses independent resources to enable us to achieve our strategic priorities.

HUMAN POTENTIAL YouthLaw increases our capacity and capability through development of our staff, volunteers, alumni and professional networks.

VALUING OUR PEOPLE YouthLaw recognizes the value of our staff, volunteers and board, and supports their growth and development.

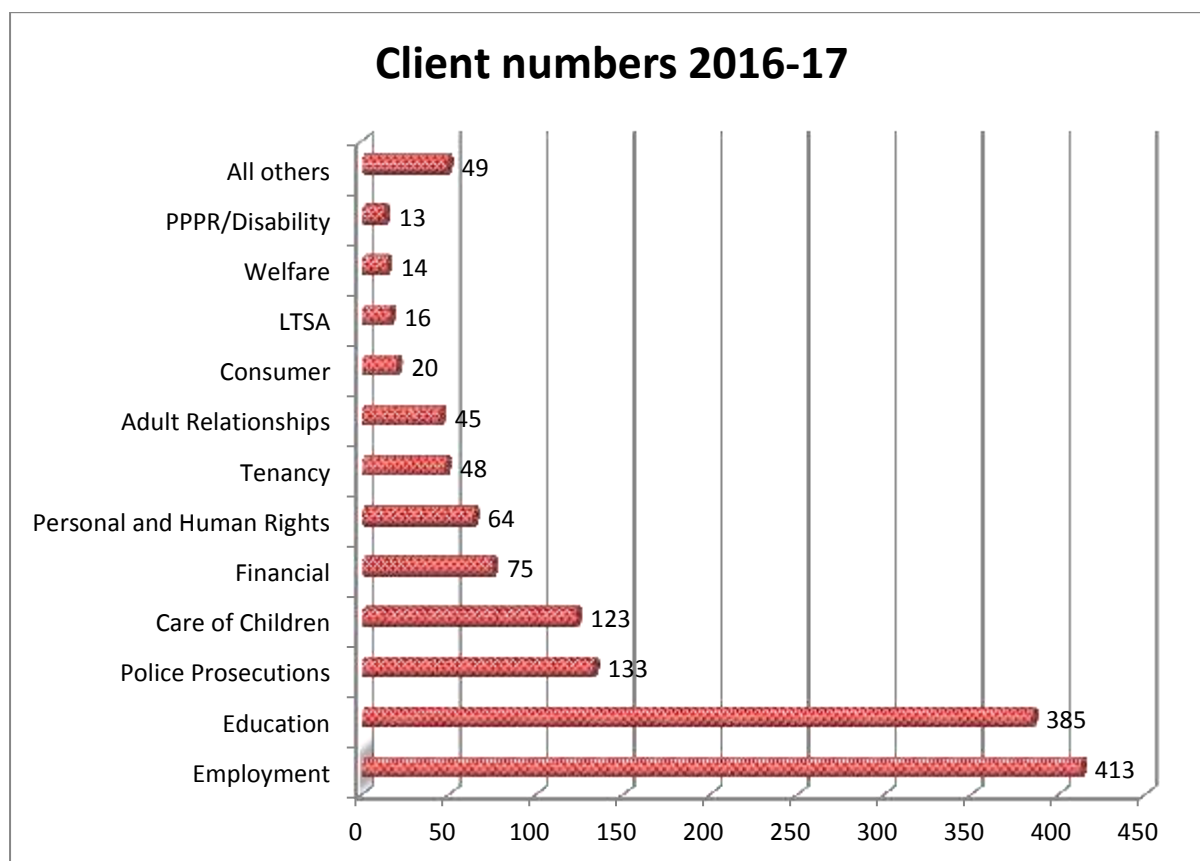
TE TIRITI O WAITANGI / THE TREATY OF WAITANGI

YOUTHLAW COMMITMENT YouthLaw will be a Treaty based organisation.

CROWN OBLIGATIONS YouthLaw will advocate that the Government meets its obligations to Māori under Te Tiriti o Waitangi.

Our achievements

Legal Services



In September this year, as part of testing out some new ideas to feed into our co-design process, we implemented a trial system for managing legal advice line queries. We moved away from a roster system where lawyers were rostered on each day, to a centralized system where all files are triaged by volunteers and law clerks, and lawyers check off advice prepared before advice is delivered.

We have still had a large proportion of employment law cases and continue to provide advice on general civil issues (such as car accidents and civil debt) and have noticed we are receiving more queries related to family law. We continue to assist some clients with employment mediations where they have a strong need for our support and input.

Some of the legal team have had some great results representing clients in criminal law matters obtaining discharges without conviction and assisting in defended hearings.

As has been the case in the past few years, our fastest growing practice area where our specialty knowledge has increasingly been called upon is education law and in particular special education.

Members of the legal team have been undertaking arbitrations under section 10 of the Education Act, mediations at the Human Rights Commission and providing specialist input on matters with

other agencies and organisations working in the sector. Our senior solicitor also is set to present on how YouthLaw has been developing the law in this area at a conference at Otago University.

The law clerks and solicitors on the revised advice line team have done a phenomenal job of providing extremely high quality and in depth advice on all case files under the new trial system – thank you!

Why is section 9 of the Education Act important?

YouthLaw instructed on a significant case relating to right to special education in the context of special schools. See the report on page 21.

What people say about our casework

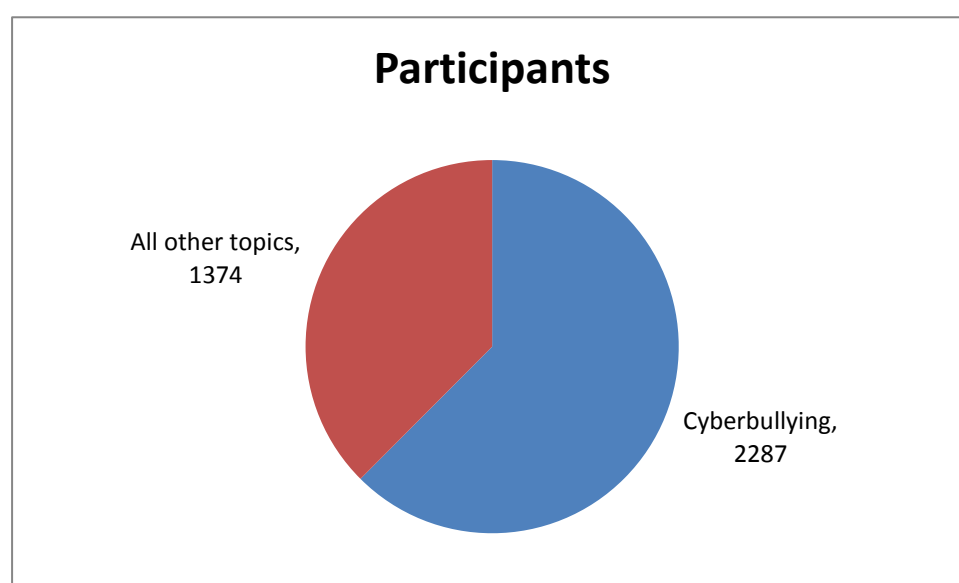
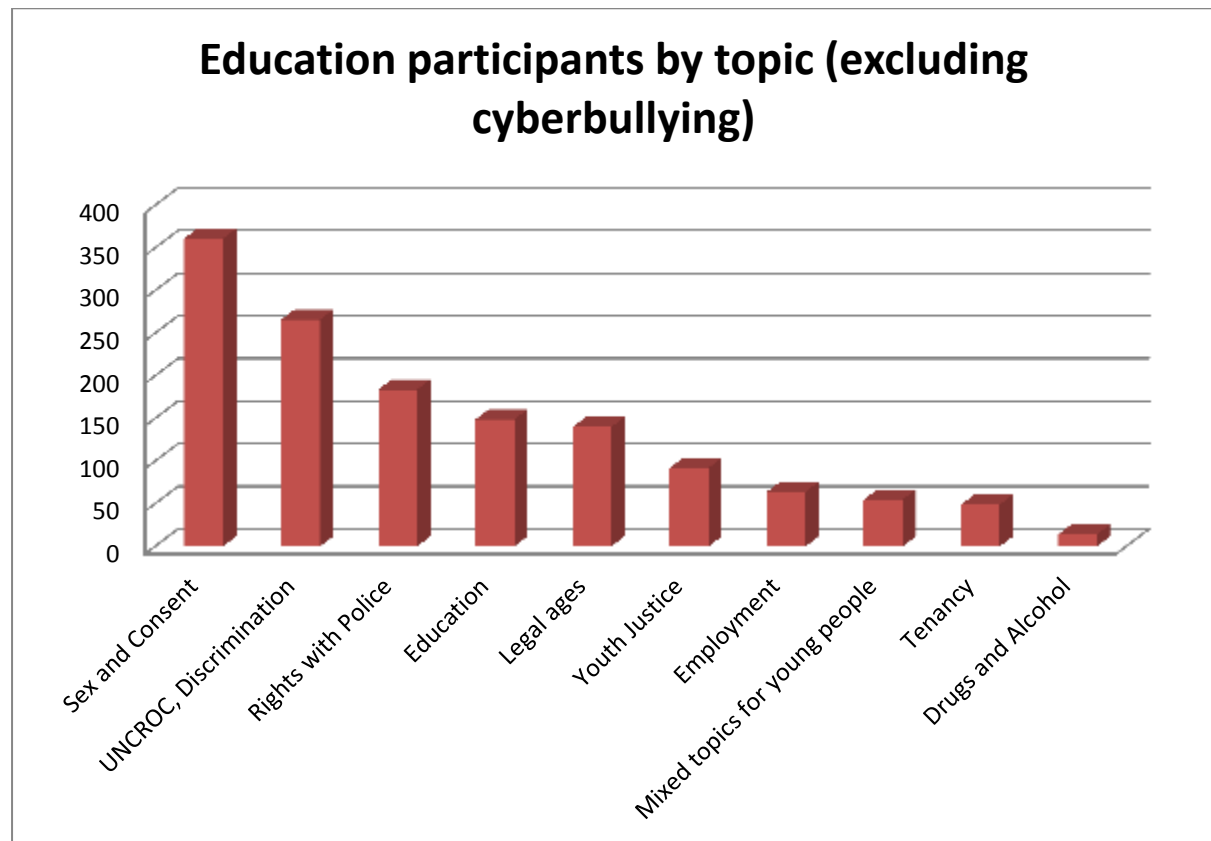
“What you do, the support you give and also what you are putting in place is so great. It is, and will be invaluable to parents like ourselves. Here’s hoping it makes the process more achievable for more parents to undertake for their children.”

“Jennifer, It is all thank to your guidance. Thanks for all your help. You have changed someone’s life and future. You must be very proud of yourself and your job”

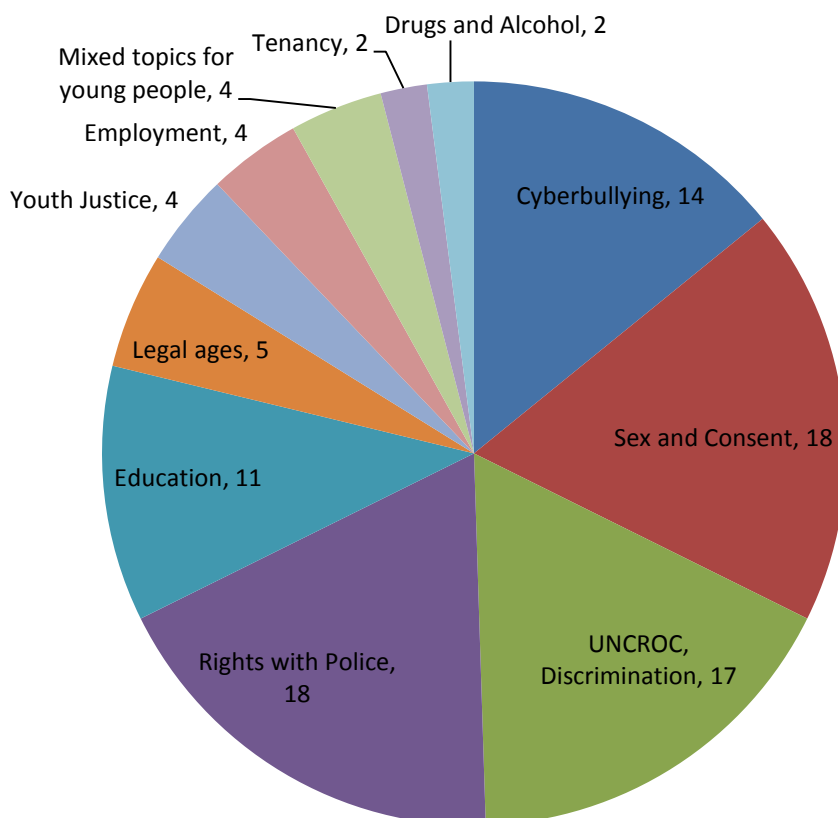
“Your input has made a positive and significant difference in a young girl’s life and is much appreciated.”

Legal Education

In 2016-17 we ran 99 education sessions with 3,661 participants across the following topics:



Session numbers 2016-17



LRE life has remained busy and exciting. In April 2016 we farewelled Annie Tavalea, and Manawa Pomare brought her wealth of legal knowledge and education experience over to the LRE team. We have continued to build and maintain relationships with schools and local services in the youth sector, as well as getting out and about around Aotearoa.

In the past year, we have travelled to Wellington, Christchurch, Manawatū, Tauranga, and Waikato to deliver LRE in schools, community and stakeholder groups, and other CLCs.

We are continuing our work in Oranga Tamariki Care & Protection and Youth Justice residences in Auckland, and are working towards expanding this across the country with the support of other CLCs.

Rights with Police, rights in schools, cyberbullying, discrimination, and sexual violence are key delivery areas that we know from research and feedback are significantly impacting young people's lives, but where we often find groups have little prior knowledge about the Law.

We receive overwhelmingly positive feedback from both young people and stakeholders about the provision of accessible legal information in the community, and hear often that legal rights-based education should be compulsory for all young people in schools.



Comprehensive two-day training for Strive Community Trust

“I realised law school doesn’t do a great job of describing our fundamental rights.”

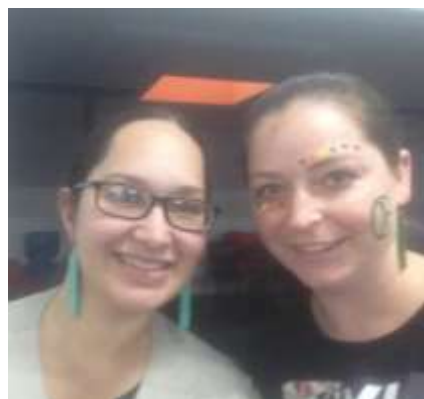
EJP hui participant



Look Up (run by Affinity Services) with educators from Rape Prevention Education and Auckland Sexual Health Service



Mount Roskill Grammar School Peace Week Expo



“I feel less vulnerable and more safe. I also feel prepared for when I do witness cyber bullying.”

Y7 student, Bailey Road School

“I really liked the chill style of the session and good vibes. Really great educational value.”

Christchurch Youth Council member



P3 (Putting Poverty in the Past) Word Changers’ Conference



“I really liked learning about laws which I didn’t realise were actually a law as I thought discrimination was just ‘wrong’.”

Shakti participant



Otumoetai College community services “Starsopoly” (supported by Graeme Dingle Foundation)

“I really liked your attitude, group work and the variety of activities.”

Young person from Refugee Youth Action Network



“...it was brilliant.
Well presented,
interactive and
very, very
informative.”

Strive Community Trust



#fanpost from St Johns Youth
Development Conference



“I really liked the
friendly, youth
focused, passionate
approach of the
facilitator.”

South Auckland Youth
Network

“I really liked being able
to take information back
to my agency that I can
easily explain through
your wonderful
examples. It has sparked
an interest that I will
look into further.”

Palmerston North Youth Worker



Festival For The Future



“It made everyone engage
into conversations.”

Graeme Dingle Foundation National
Youth Advisory Group member

Law reform

In 2016 YouthLaw published two reports aimed at raising awareness and highlighting issues in the education sector.

In *Challenging the Barriers: Ensuring access to education for children with special educational needs* we noted significant weaknesses with the provision of special education in New Zealand. In particular issues identified included:

- Insufficient support of teachers and schools – particularly professional development and capacity of educators;
- Lack of a cohesive inclusive culture at all levels – particularly lack of guidance and procedural frameworks for educational support;
- Lack of value placed on appropriate training and resourcing in the sector particularly funding support issues, assessment and reporting issues; and
- An absence of any accessible appeal function to review funding and other decisions affecting accessibility of education.



The report set out a number of recommendations including:

- Reforming policies for educational support for students with disabilities starting from a values and rights based framework. This would include changes to legislative and procedural frameworks;
- Ensuring professional development and capacity of educators. This would include changes such as increased training, development and monitoring mechanisms in a collaborative framework;
- Adequate provision of funding support services including matters such as additional learning support and targeted individual funding.
- Introduction of assessment and reporting mechanisms;
- Inclusion of enforcement mechanisms such as a dispute resolution scheme, the ability to complain to an independent agency, establishment of an education tribunal and audits and systemic research in the sector.

The report was picked up by the Greens in the lead up to the September 2017 election and many of the recommendations were reflected in the education policy released by the party.

Barriers to Education in New Zealand:

The Rise of Informal Removals of Students in New Zealand



YouthLaw Aotearoa

The second report that was published in 2016 is *Challenging the Barriers: The rise of informal removals of students in New Zealand*.

The report seeks to highlight and raise awareness of a previously un-researched phenomenon: “kiwi” or illegal suspensions from school.

The report based on anecdotal case studies found that the formal statistics of the Ministry of Education in relation to numbers of students removed from school was arguably inaccurate. Although the Education Act 1989 sets out clear processes that schools must adhere to in order to formally remove students from school, there is increasing evidence that schools are increasingly

utilizing informal removals that avoid use of formal processes meaning the true number of students unable to access education is not known.

The report found that a disproportionate number of students with special educational needs were impacted by such informal and covert measures and many if not all suffered discrimination in breach of rights afforded under the Human Rights Act, Bill of Rights Act and international law such as the United Nations Convention on the rights of persons with disabilities.

The report made a number of recommendations for law reform in the sector including instituting comprehensive and widespread training for school boards of trustees, appointment of an education commissioner, providing guidance on uniform restorative justice and informal processes, establishment of an independent tribunal, and increased monitoring and audit measures. The recommendation to establish an independent tribunal has been strongly supported by the Children’s Commissioner and was also reflected in the policies issued by a number of parties in the lead up to the September 2017 election.

In news hot off the press, the children’s commissioner Judge Andrew Becroft has been working with Human Rights Commissioner David Rutherford and the New Zealand School Trustees Association to pilot an appeals panel for school board of trustee decisions. The commissioner noted his concern that rugby players had more protective appeal mechanisms than students who faced removal from a fundamental right of education. The commissioner has referred to YouthLaw recommendations in highlighting the fact that about a third of calls to the Children’s Commission could potentially be resolved by this trial becoming a permanent feature.

Strategic Planning

In our last annual report our Chairperson talked about the process YouthLaw had gone through to get input into our strategic plan including engaging with a diverse group of young people, the other community law centres around the country and other organisations working with and for young people. All of the input we received was then distilled into our new strategic plan formally adopted by the Board in February. Our new vision is “A fair and just Aotearoa in which children and young people’s rights are respected and their voices are heard”.

To achieve this vision we have developed four workstreams:

- Ko Nga Rangatahi Te Tokomanawa o a Tatou Mahi / Youth at the Centre of our Work
- Kotahitanga / Collaboration
- Raukaha / Capacity
- Te Tiriti o Waitangi / The Treaty of Waitangi

Work is now underway to operationalise our strategic plan starting with a Codesign process with young people and other Community Law Centres.

Youth Consult

In June of 2016, a series of consults was conducted to inform YouthLaw’s strategic planning. We spoke with a diverse mix of rangatahi, and a few adults working in the youth services sector, about key issues currently experienced by young people, their thoughts on law, and how they consume and communicate information. Through analysis, we found prominent themes to be: lack of access to information; inequality and discrimination; issues with government departments / processes (especially Justice and Education); need for community resources (including fair employment); and young people’s safety (including sex, cyberbullying, and substance use).

We heard from young people and adults working with them that there is a distinct need for better access to relevant legal information. They feel that improved accessibility and visibility of their legal rights would greatly assist young people to make more informed, more empowered, and safer decisions in their own lives and with their peers. Respondents overwhelmingly indicated the use of digital technologies and effective in-person education (especially through schools) as preferred methods for receiving law-related information.

Young people told us that they are significantly impacted by and concerned about the inequitable treatment, in this country, of: young people; LGBTQIA+ / the rainbow community; people with disabilities (including mental health and addiction); poor people; children and young people under the care of CYF (including in residential placements); international students and refugees; rural communities; and he tāngata Māori. They want legal reform that redresses the disadvantage experienced by these groups, and viable avenues through which to access practical support for those suffering as a result of discrimination.

We are very grateful to all participants for sharing their insights with us, and we look forward to ongoing community collaboration as we work to improve access to justice for children and young

people in Aotearoa. Gold-star thank yous to: Waitematā District Health Board Youth Advisory Group; Manurewa Youth Council & Limitless Youth Leadership; Auckland Council Youth Advisory Panel; Generation Zero; Youthline; Rainbow Youth; Auckland University Students' Association Student Advice Hub; Equal Justice Project; Whakatakapokai Care and Protection Residence; Korowai Manaaki Youth Justice Residence; PHAB New Zealand; Ngā Rangatahi Toa; Southland District Youth Council; Palmerston North Youth Council; and all those who completed our online survey.

CLC consultation

In 2016 YouthLaw talked to a number of other community law centres about the work we all do with young people and how YouthLaw can better co-ordinate our work with other centres.

While we found that other CLCs work with people aged between 18 to 24 year olds, hardly anyone else does casework directly with under 18 year olds. Both Wellington and Canterbury have youth specialists but mainly work with parents on education issues. Canterbury also does a lot of employment and welfare work. Other CLCs liked being able to refer cases to YouthLaw and saw us as the national youth specialist.

We found that CLCs would like to hear more from us on a regular basis, for example, what are the national trends in youth law? What new resources are available? We heard that our existing resources are well used, such as the phone app and the Rights Wallet.

Overall we heard there is a commitment to work together on youth issues. We will follow up on this in our Codesign work over the next year.

Treaty commitment

On 27th and 28th of April this year, YouthLaw Staff and volunteers participated in the Treaty Training workshop funded through CLCA and run by Jen Margaret. All who attended were grateful for the chance to refresh their knowledge and learn a few new things.

As a follow up to this workshop, and part of YouthLaw's Operational Training, a specific treaty related work stream was created. Staff were better able to participate in this process having just recently been through the Treaty Training workshop, and made a number of key recommendations around priorities, including:

- Upskill language and tikanga
- Having a Noho marae with Staff and Board Members
- Relationships – identifying what we have now, and getting to know local Hapu/Iwi and history
- Looking at ways to recruit more Maori staff
- Talking to other CLCs around their Tiriti strategies, recruitment, and funding new recruitment needed

Other priorities were also identified and formed part of a longer term strategy around treaty responsiveness, including ensuring Treaty justice is included in any law reform we do.

Our People



YouthLaw's Board

Jennifer Braithwaite, Chairperson

Andrew Ryan, Treasurer

Piers Davies

David Sutton

Harvena Hudson

Nive Sharat Chandran

Simon Judd

Thanks to these board members who finished their terms in 2016:

James Jung

Gordon Tian

Daryn Govender

Bonnie Small

YouthLaw's staff

Vanushi Walters

Jennifer Walsh

Karen Davis

Sarah Boyd

Velda Chan

Manawa Pomare

Kenton Starr

Sasha-Leigh Meyer

General Manager

Senior Solicitor

Operations Manager

Legal Education Co-ordinator

Solicitor

Solicitor/Legal Education Facilitator

Solicitor

Administration Assistant

Alex Slipper
Cameron Warner

Law Clerk
Law Clerk

Farewells through 2016-17

Joanna Maskell
Annie Tavalea
Martina Wright
Emily Maguire
Naushyn Janah

Solicitor, Media and Law Reform Officer
Legal Education Coordinator
Administration Assistant
Law Clerk
Law Clerk

YOUTHLAW WOULD LIKE TO ACKNOWLEDGE OUR VOLUNTEERS

ABDULLA Ibrahim
ALEX Slipper
AMEER Singh
ANGELA Mahendran
ASENA Tolungamaka
CAMERON Warner
CHERI-ROSE Smith
CONOR McGorman
CYDNEY Palmer
DENISHA Chetty
DIA Uluiviti
EMILY MacGuire
EMMA Barnes
EON Lai
GAGAN Sohaj
GEORGINA Lui
HARPREET Kaur
JAMES Cartwright
JASMINE Daroch

LOGAN Malland
MAY Canon
MICHAEL Greatrex
NATALIE Devery
NATASHA Raj
NAUSHYN Janah
PATRICIA Fera
PUNITA Thakur
RACHAEL Choy
ROHAN Lal
RYAN Biddulph
SARA Yocoub
SASHA-LEIGH Meyer
SEAN Kim
SEAN Tang
SIMON Noonan
SUSHMITHA Deshpande
YUMIE Ly
YUE Zhang

"It has probably been the most useful experience I have ever had. I gained research skills, reception (interviewing) skills and more importantly skills listening to instructions and carrying out duties."

"I like feeling useful, particularly to such a vulnerable sector of society."



YouthLaw's 30th Anniversary

March 2017

A celebration of 30 years of working in the interests of children and young people

Our youngest staff members, Emily and Alex, were our MCs.



Founder Robert Ludbrook and board member from establishment to present Piers Davies spoke about the inception and history of YouthLaw



Other staff and board talked about our current work



And of course we had cake!



Past and present staff and Board members reminisced and discussed inspiration for the future



Acknowledgements

YouthLaw Aotearoa wishes to thank the many organisations and individuals who have provided their kind support and invaluable assistance to its ongoing achievements and success.

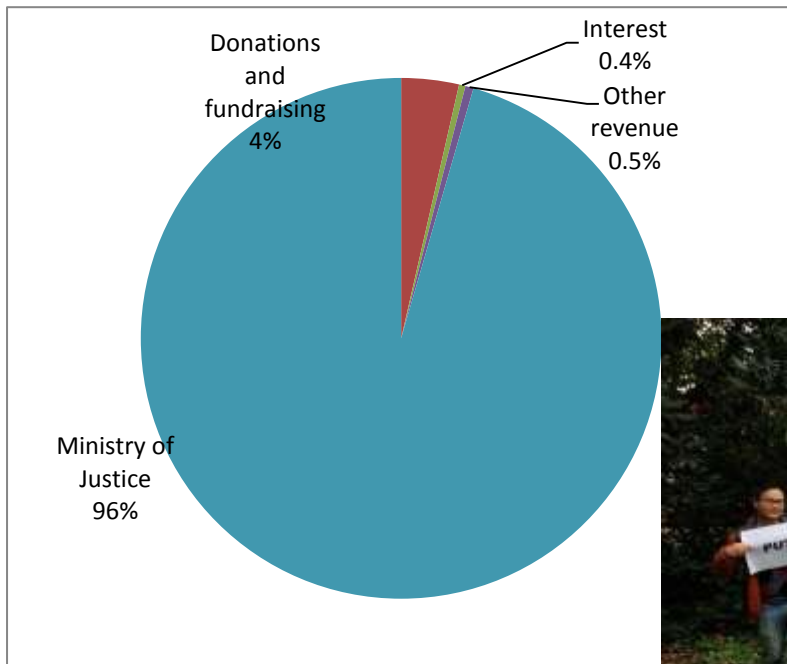
In particular we would like to thank:

- The Ministry of Justice
- New Zealand Law Foundation
- Minter Ellison Rudd Watts
- AUT Law School
- AUT Law Students Association
- Youthline Manukau, Auckland Central and Albany
- IHC
- The Prader Willi Syndrome Association
- Expert IT
- Sentinel Technology
- Cloud Accounting
- Australia New Zealand Education Law Association
- Action for Children and Youth Aotearoa
- Rainbow Youth
- The Auckland Law School Running Club
- Auckland Disability Law
- Community Law Centres Aotearoa and community law centres around the country
- Waitematā District Health Board Youth Advisory Group
- Manurewa Youth Council & Limitless Youth Leadership
- Auckland Council Youth Advisory Panel
- Generation Zero
- Auckland University Students' Association Student Advice Hub
- Equal Justice Project
- Whakatakapokai Care and Protection Residence
- Korowai Manaaki Youth Justice Residence
- LifeHack
- PHAB New Zealand
- Ngā Rangatahi Toa
- Southland District Youth Council
- Palmerston North Youth Council.
- The Cheesecake Shop, Manukau

Finances July 2016-June 2017

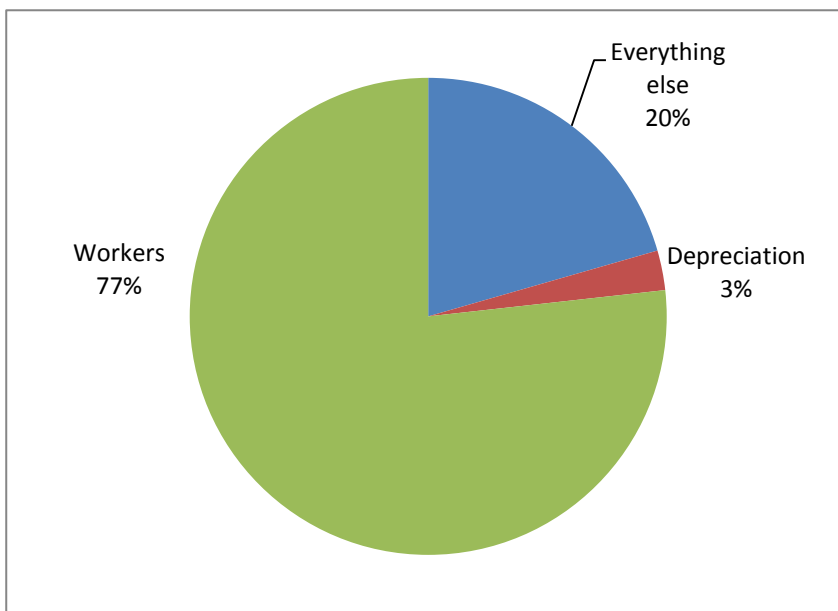
Where does the money come from?

Most of our money comes from our contract with the Ministry of Justice for Community Law. About half of this money is derived from the interest earned on lawyers' trust accounts.



We also receive donations, including sponsorship from the Auckland Law School Running Club who are running in the Devonport Half-Marathon in September. Thanks guys!

Where does our money go?



Most of our money is used to pay staff so that they can work directly with young people and be well supervised. We also pay rent, for phones and IT gear, travel to get to places, and the rest of the bills that keep the office going.

For our full financial Performance Report for the 16-17 financial year, please email info@youthlaw.co.nz.

Closing Comments



Jen Braithwaite
Board Chair

Ehara taku toa i te toa takitahi, engari he toa takitini
'My strength is not that of a single warrior but that of many.'
Paterangi of Ngāti Kahungunu

This pēpeha speaks to where the combined efforts of many are needed to complete a project. I have chosen it for my closing comments because the work of many is required in order for our vision of a fair and just Aotearoa in which children & young people's rights are respected and their voices are heard alone to become a reality. This includes the efforts of each and every community law centre around the country, the many incredible organisations working in the youth sector but most importantly, children and young people and their families, whanau and communities. We cannot create the change that Aotearoa needs alone.

Our commitment as an organisation to working in a collaborative and participatory way has lead us to begin a new way of engaging with both those that we work for and those that work with us using co-design methods. We are excited about what we will learn through this new way of working and look forward to increasing the impact of what we do and how we do it.

Finally, I wish to thank everyone who works with and for YouthLaw Aotearoa – our staff, volunteers, members, people from our partner organisations in the youth and community law sectors and of course my fellow Board members. I also look forward to the work we will do in the next three years to start to give effect our vision.



Vanushi Walters
General Manager

Tēnā koutou

Election year has a way of making issues sink a little deeper under the skin. It often brings to the forefront the reasons why so many of us who work for YouthLaw choose to do so.

The opportunity to put children's issues squarely in front of those in leadership roles is both exciting as well as frustrating. It has been a time where passionate debate has been sparked in the office and with our colleagues in the sector about the need for committed leadership to address the challenges faced by too many of our Rangatahi and Tamariki.

Regardless of what happens in the upcoming term, the work of those of us in the not for profit/community sector is critical. Looking back at the last year I believe the YouthLaw team has laid the groundwork to take leaps forward in legal service delivery in the coming years and be a key voice in ensuring children's rights stay on the agenda.

The last year has certainly been a busy period, with a move in premises to Manukau Central, the adoption of a new operational plan, the delivery of education sessions to thousands of young people nationwide and the provision of legal support to young people via our phone line. We've grown our role with our partner Action for Children and Youth Aotearoa holding two positions within the executive and held a place as one of the observers in Geneva when the New Zealand Government was questioned on its compliance with the UN Convention on the Rights of the Child. However, the most significant change that I've noticed in our team has been a brave approach to discussing how we might develop, coordinate and grow youth legal services nationwide going forward.

In the past we've tended to ask ourselves, how can we improve our services. But somewhere along the journey of the last year we started asking, 'are we willing to look at services from scratch? What should youth legal services look like nationwide? What is our theory of change and who else needs to own this process as we explore new service delivery design?'

It really is a gift when you work with a team of people who place purpose foremost in their minds. As we start a new process with young people and our Community Law partners to co-design our services, I'm grateful for our passionate and highly skilled team who are committed to redesigning the scaffolding that supports our young people to navigate often critical legal decisions.

Ngā mihi maioha.

Appendix

Special report: Why is section 9 of the Education Act important?

YouthLaw instructed on a significant case relating to right to special education in the context of special schools

YouthLaw has managed to develop significant expertise in the area of education law growing a profile in the field since the Green Bay case of 2014. Sections 3, 8, and 9 of the Education Act 1989 set out that every child is entitled to a state sponsored education and that students with special educational needs are entitled to an education that accommodates those needs and enables them to receive an education to an equal and comparable level to their peers.

In 2008 New Zealand ratified the United Nations Convention on the rights of Disabled persons. Article 24 of the convention specifically sets out that states are obliged to ensure that those with disabilities receive reasonable accommodation in accessing education. Any failure to provide for the special educational needs of a student can constitute discrimination pursuant to the Bill of Rights Act and Human Rights Act.

Section 9 of the Education Act provides for the ability of the Secretary of Education to direct that a student be enrolled at a special school where it is deemed appropriate to meet the special educational needs of that student. A section 9 direction should be undertaken following consultation between a student, their parents and the Ministry of Education. Students subject to a section 9 direction must have an individual education plan or IEP setting out learning goals, timeframes and how the provision of education is to be achieved. The IEP should also include ongoing input and medication where necessary as a student progresses through their education. It is vital that the IEP is adaptable and flexible enough to provide adequate planning for transition between schooling environments and changes to levels of support required.

YouthLaw was instructed by the families of three girls with unique special educational needs seeking to challenge the Ministry of Education's provision of special education for each of the girls in the context of enrolment at a special school. By way of background, since the introduction of Special Education 2000 policy there has been an emphasis on inclusion of students with special educational needs in the mainstream where possible.

The first girl instructed by YouthLaw was R. She was 18 years old and had been diagnosed with a rare congenital disorder known as Prada Willi syndrome. This is a condition which results in the absence of certain genes growing normally on chromosome 15. The condition is characterized by learning difficulties, growth abnormalities, and obsessive eating. R's insatiable appetite also led to her

developing type 2 diabetes. Throughout her schooling history R had difficulties having her educational needs met in mainstream schooling although she was verified for high needs support ORS funding. Whilst she was in mainstream schools she was left unmonitored to dig through rubbish bins at school, left unmonitored to take other student's lunches from their bags, left unmonitored with risky kitchen equipment whilst looking for food at school, left without proper administration of her diabetes medication at the right times and was subjected to bullying by other children. R's inherent vulnerability and lack of ability to perceive risks also placed her at greater risk of sexual assault.

YouthLaw's second client P was 14 years old. P was diagnosed with disorganized attachment disorder, ADHD and ODD. P also had an intellectual disability where she functioned approximately three years below her chronological age. P's conduct disorder rendered her inappropriately familiar with strangers and P was unaware of the dangers associated with this. P had an obsessional nature around males leaving her open to risk of sexual assault. When P attended mainstream schools she experienced isolation, bullying, stand-downs and exclusions.

YouthLaw's third client was M. M was 15 years old and had been diagnosed with ASD, epilepsy, intellectual disability and global developmental delay. M's family described M as being virtually a preschooler trapped inside a teenager's body that needed 24 hour supervision and support. M would become extremely frustrated when she could not communicate her needs or was not understood and this would result in violent behaviour. When M was extremely frustrated she would self-harm picking at her fingers and toes until they bled, making her nose bleed and biting her hand. When M was in mainstream schooling she was often placed in timeout rooms where she would urinate on the floor, cry, scream and bang on the doors and walls until she was exhausted. It became apparent that M's needs were not been met in the mainstream and for a period she was out of school 28 weeks.

All three families report that once the three girls were accepted into a special girls only school ("the school") the girls started to thrive socially and academically. The school at which the girls were enrolled was the only remaining single sex special school in the country with a unique environment which accommodated their needs at the time that YouthLaw was instructed.

The ability of girls with severe special educational needs to access enrolment at the school has changed significantly in the past few years as a result of changes to Ministry of Education ("MOE") directives. Prior to 2012, high needs funded students were able to make direct application to the school. In 2012 the MOE commenced consultation on the future of residential schools with a view to closing some schools and broadening the scope of a recently introduced intensive wraparound special education service for students with complex behavioural, social, educational needs and intellectual impairment. Throughout consultation it was indicated that there was an intention to only leave remaining a smaller number of co-educational special schools for students to enrol in. The school objected to the proposals citing significant amounts of literature and research which reports that girls with learning disabilities are 7 times more likely to suffer abuse than non-disabled students and 69% of girls (compared to 30%) of boys will have experienced abuse before the age of 18. Given the evidence that boys were also likely to become perpetrators of abuse, concerns were expressed at the safety risks to vulnerable girls. It was also argued that there were not enough safeguards to prevent the occurrence of abuse in co-educational settings. At the end of 2012 the MOE announced

its decision to close the school. This decision was judicially reviewed by the school and the decision was quashed on the basis insufficient consideration had been given to the risks that could arise for female students (“the decision”).

Following the decision, the MOE sought to reduce the notional roll of the school and students were only able to apply for admission to the school through the Intensive wrap around service (“IWS”) which was via a MOE panel assessment for a limited period of up to two years. For the three families of YouthLaw’s clients, the IWS application was an arduous process. The families advised YouthLaw that it was extremely difficult to extract information from the MOE about what was required in the application. For all families the process involved continued questioning, repeated agitation and a number of applications before the girls were finally accepted into the panel program. When YouthLaw was instructed, the MOE had renewed discussion around potential closure of the school and the girls limited IWS allocations were due to come to an end leaving them in a position of uncertainty.

The girls and their families were in positions of considerable stress and uncertainty given the MOE had not provided the families with an indication of what would occur once the IWS allocation came to an end and what would happen with the ongoing future of the school. This resulted in significant stress and worry for the girls and their families and they were not able to plan for their ongoing education.

Given the obligations under each of the girl’s IEP’s that the MOE consult with the girls and their families about ongoing provision of support of their special educational needs with specific time frames and measures, there was a real question around whether the MOE was meeting its obligations under section 9 of the Education Act 1989. It then led to the question of whether the girls had been discriminated against due to their disability under the Human Rights Act and Bill of Rights Act.

The right to special education is a particularly topical issue at present. The changing legal landscape indicates that there are duties to ensure that students with special educational needs are reasonably accommodated, and the obligations to consult and implement workable IEP’s are crucial to avoid discrimination.

YouthLaw successfully represented the three girls and their families at mediation at the Human Rights Commission. A settlement was reached which enabled the girls all to have some certainty about their educational futures moving forward. It is hoped in the future an opportunity will arise to enable clarification of the MOE’s duties under Section 9 in the context of reasonable accommodation.

Another case study: The case of F, (7) who had been diagnosed with ASD and a number of other conditions who needed special education support. Because F was located in a town quite a significant distance from YouthLaw, YouthLaw was able to provide remote assistance by helping F’s mother with appealing a decline of an ORS funding application with help in the submissions and

process. The appeal was successful and F's mother reported to YouthLaw that the assistance had been invaluable.

Another case study: A was a 12 year old who had been diagnosed with epilepsy, spinal cord syringomyelia, tic disorder, ADHD, ASD, significant global cognitive impairment, pervasive development disorder, moderate to severe intellectual disability and significant physical movement and behavioural difficulties. Despite a number of years of attempting to seek high needs ORS support funding from the Ministry of Education with a number of reviews, A had been denied this support and was continuing to work within level 1 of the curriculum. Once YouthLaw was instructed, YouthLaw worked with A's SENCO, paediatrician, SLT, OT and A's family to compile documentation to seek a review with a view to seeking an arbitration appeal if the review was unsuccessful. The systemic compilation of data and submissions and indication that A's family were supported in moving forward to arbitration resulted in the Ministry overturning their previous decision to decline funding and A was then granted ORS funding meaning he could receive the support needed in his schooling moving forward.