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RECEIVED
Waitangi Tribunal
*7 Sep 22*
Ministry of Justice
WELLINGTON

| Area of law | Minimum period of recent experience | Minimum number of cases or proceedings (substantial and active involvement) | Indicative number of cases or proceedings (substantial and active involvement) | Other requirements |
|---|---|---|---|---|
| **Refugees and Protected Persons** | At least **18 months** working on refugee and protected person cases | Substantial and active involvement in at least **5** cases at the Refugee Status Branch level<br><br>Actively participated in at least **1** proceeding before the Immigration and Protection Tribunal, Deportation Review Tribunal, Refugee Status Appeals Authority, or Removal Review Authority | Substantial and active involvement in **10** cases at the Refugee Status Branch level<br><br>Actively participated in **2** proceedings before any of the following tribunals/authorities: Immigration and Protection Tribunal, Deportation Review Tribunal, Refugee Status Appeals Authority, or Removal Review Authority | - |
| **Waitangi Tribunal** | At least **18 months** working on Waitangi Tribunal cases | Substantial and active involvement in at least **3** substantial Waitangi Tribunal proceedings | Substantial and active involvement in **5** substantial Waitangi Tribunal proceedings | Have sound knowledge of Te Tiriti o Waitangi and Waitangi Tribunal jurisprudence<br><br>Have an understanding of tikanga Māori and basic ability in te reo Māori |
| **Māori Land Court and Māori Appellate Court** | At least **18 months** working on Māori Land Court cases | Substantial and active involvement in at least **3** substantial Māori Land Court proceedings | Substantial and active involvement in **5** substantial Māori Land Court proceedings | Have sound knowledge of Te Tiriti o Waitangi and Māori land law<br><br>Have an understanding of tikanga Māori and basic ability in te reo Māori |

# Waiver of requirement that experience be recent

Recent experience is defined in the Regulations as "in relation to an application from a lawyer, experience gained in the 5 years immediately before the date of application".[5] However, the Secretary may waive the requirement that an applicant's relevant experience be recent if the Secretary is satisfied that the applicant meets the relevant experience and competence requirements in all other respects.[6]

If your experience isn't recent, you should outline your previous experience, and any other relevant information (such as recent courses completed), in the *Additional information* section of the form.

[5] Reg 3 of the Regulations

[6] Reg 6A of the Regulations

## Services provided by lawyers at a discounted rate or reduce fee

Most lawyers are providing services at a discounted rate or reduced fee with six in ten (59%) having provided some kind of service. Four in ten (43%) have provided reduced fee legal services to people who otherwise would not be able to afford it.

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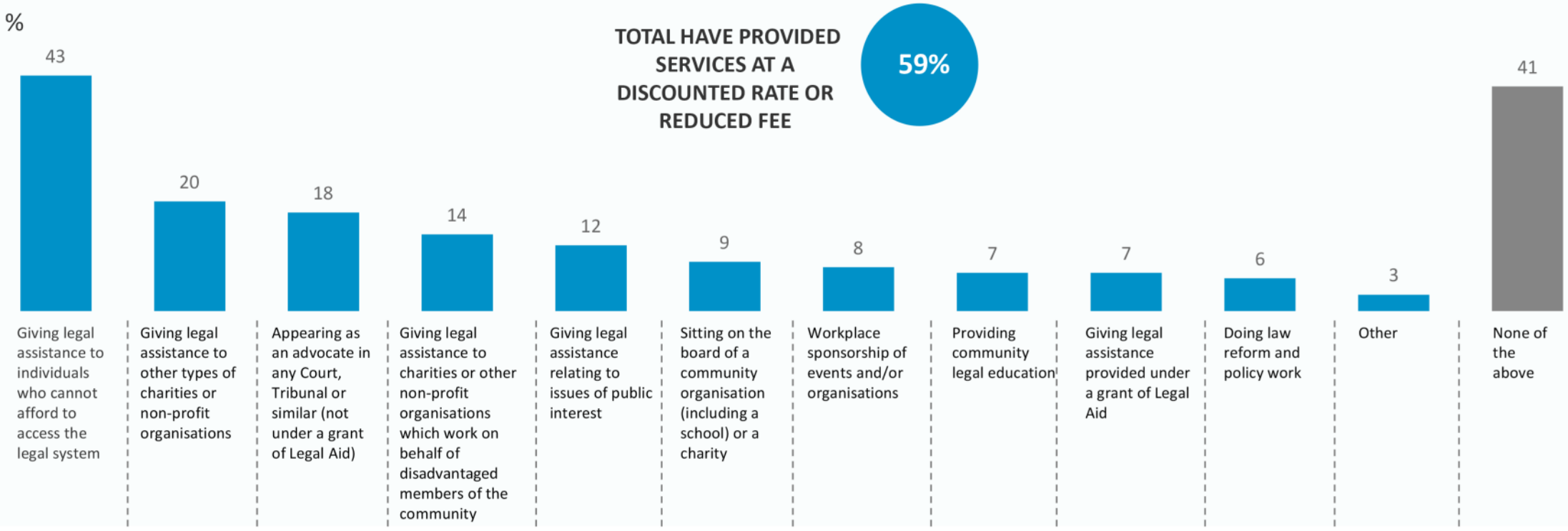
PROVIDING SERVICES AT A DISCOUNTED RATE OR REDUCED FEE

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Note: These categories will sum to more than 100% as lawyers may have done work in a number of categories
Base: All lawyers (n=2,989)
D3 And in the last 12 months have you done any of the following for a discounted rate or reduced fee (i.e., provided low bono services)?

## Sub group differences for providing services at a discounted rate or reduced fee

Established lawyers in the later stages of their career are more likely than average to be providing services at a reduced fee.

### PROVIDES DISCOUNTED OR REDUCED FEE SERVICES

The following lawyers are **more** likely than average (59%) to have provided services of some kind at a discounted rate or reduce fee:

- Directors / partners (82%)
- Barristers (80%)
- Legal aid lawyers (75%)
- Aged 50+ (73%)
- 20 years or more in the profession (72%)
- Based in South Island (68%)
- Based in Upper North Island - Northland or Bay of Plenty (67%)
- Males (66%).

### DOES NOT PROVIDE DISCOUNTED OR REDUCED FEE SERVICES

The following lawyers are **more** likely than average (41%) to have not provided any services at a discounted rate or reduce fee:

- Employees in-house (85%)
- Aged under 40 (55%)
- Up to 10 years in the profession (54%)
- Based in Wellington (51%)



Base: All respondents (n=2,989)
D3 And in the last 12 months have you done any of the following for a discounted rate or reduced fee (i.e., provided low bono services)?

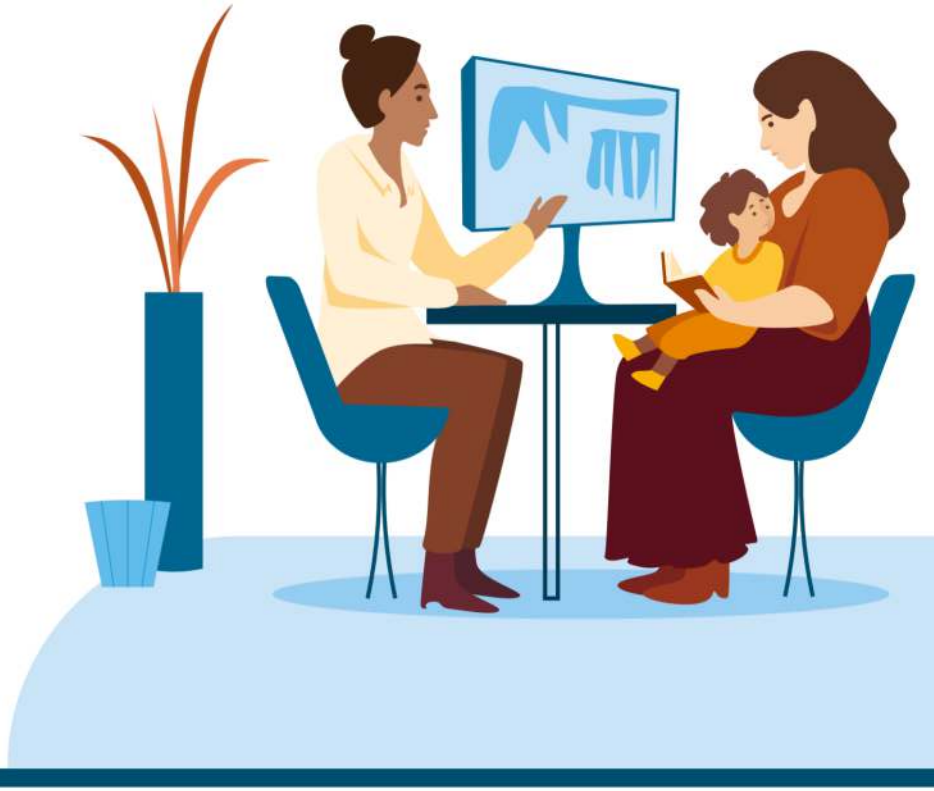
## Sub group differences for providing services for free

As with low bono services, longer serving lawyers are most likely to be providing free legal assistance to people who cannot afford legal representation. In addition to undertaking legal aid, two thirds of legal aid lawyers are also providing legal assistance for free. However, this may include hours for legal aid cases which are not remunerated (see page 24).

### PROVIDES FREE LEGAL ASSISTANCE TO THOSE WHO CAN'T AFFORD IT

The following lawyers are **more** likely than average (45%) to have provided free legal assistance to individuals who cannot afford to access the legal system:

- Barristers (70%)
- Legal aid lawyers (67%)
- Directors / partners (64%)
- Aged 50+ (63%)
- 20 years or more in the profession (59%)
- Based in South Island excl. Canterbury and Otago (56%).



Base: Lawyers who have provided free legal services to those who can't afford it in the last 12 months (n=1,449)
D1 Which of the following services have you provided for free in the last 12 months?

## Time spent

In an average week, lawyers are spending 6 hours of their time providing free services. At 11 hours a week Te Tiriti o Waitangi lawyers are providing the most hours for free.

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## TIME SPENT PROVIDING FREE SERVICES

**6**

**AVERAGE NUMBER OF HOURS SPENT ON FREE LEGAL SERVICES**

The following groups of lawyers are spending more hours each week providing free services:

- Work in Māori / Te Tiriti o Waitangi law (11 hours)
- Legal aid lawyers (9 hours)
- Work in criminal law (10 hours)
- Work in immigration law (10 hours)
- Pacific lawyers (10 hours)
- Māori lawyers (9 hours)
- Work in administrative / public law (9 hours)
- Work in family law (8 hours)
- Barristers (8 hours)

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Note: To calculate the average, outliers of over 40 hours per week have been removed
Base: Lawyers who have provided services for free in the last 12 months (n=2,159)
E3 How many hours in an average week would you say you spend doing this type of work?

**Interview with Tiana Epati, barrister, former crown prosecutor and immediate past president of the Law Society (Kathryn Ryan, Nine to Noon, RNZ, 2 May 2022) informal transcription**

**https://www.rnz.co.nz/audio/player?audio_id=2018840227**

**From 17:08**

"...and the second thing I'll say, the Legal Services Agency at the time, they did a report which said, look, the costs of legal practice back then, 2007, the costs of legal practice is roughly $73 per hour and so therefore the legal aid rate, they recommended the legal aid rate of $170 an hour.

And to this day, we still haven't reached that rate. We still haven't reached the rate that was recommended in 2007."