

# WORKSHOP 3C: CORPORATE SOCIAL RESPONSIBILITY AND CORPORATE CITIZENSHIP – MORE THAN PRO BONO

## WHY SHOULD LAW FIRMS CONSIDER CORPORATE CITIZENSHIP?

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**Abstract:** *This paper will look at the following:*

- *The Clayton Utz approach to corporate citizenship*
- *The relationship between corporate citizenship and the pro bono program*
- *The key elements*
- *Clayton Utz Foundation and community engagement*
- *The national project*
- *State based programs*
- *The Melbourne office experience*
- *Tips and traps - practical suggestions*

### 1. Introduction

- 1.1 The original aim of this presentation was to outline the corporate citizenship program that we are implementing at Clayton Utz and to suggest ways in which similar programs could establish at other firms. But on further reflection it occurred to me that there is a prior question:

why should a law firm consider a corporate citizenship program at all?

- 1.2 So, rather than address the practical issues, this paper outlines a theory of corporate citizenship at a law firm.

### 2. A word about words

- 2.1 Before I begin, a short word about words. This paper does not define corporate citizenship, or discuss how it differs from corporate social responsibility, or how it fits into notions of the triple (or quadruple) bottom line, or any number of the other debates which exist in the sector. Those are issues which others are more qualified to discuss.
- 2.2 At Clayton Utz we conceptualise corporate citizenship as a recognition that as a large law firm (and therefore a large business entity), we have obligations to conduct the business of law in a way which, in so far as possible, has a positive impact on the communities in which we live and work. That notion underpins our program and for those that like definitions, let that be it.
3. Why should law firms be good corporate citizens?
- 3.1 At a recent seminar of pro bono coordinators one of the issues we discussed was corporate citizenship and law firms. We had a fascinating session identifying some of the "pros" and "cons" of law firm involvement in such a concept. Many valid issues were raised, including:
- (a) if a law firm is not a corporation, who do "corporate" citizenship?
  - (b) Secondly, won't corporate citizenship weaken our pro bono commitment?
- 3.2 A framework for corporate citizenship at the law firm answers the first question and alleviates the concerns underlying the second.
- 3.3 In presenting this I do not pretend that this is the last word on the subject. The whole area of CSR and corporate citizenship is relatively new and its

application to law firms newer still (perhaps only in the last 3-4 years). I've been thinking of how to apply the principles to my firm for several years, but there is some way to go. In fact, I suspect it is part of the broader struggle of lawyers and firms to reinvent ourselves and our profession for the 21st century, but that's another paper.<sup>1</sup>

#### 4. No lawyer is an island anymore

4.1 As lawyers, we understand our obligation to provide pro bono legal services to those who cannot afford them as being grounded in our professional obligation as lawyers. This proposition is relatively uncontroversial. The obligation first arose at a time when the law was largely a profession practiced by individuals and certainly well before the vast majority of lawyers practiced their trade in a firm. Even those of you who work at firms which would be characterised as small or boutique are part of much larger entities than most lawyers throughout history<sup>2</sup>.

4.2 Many firms have established formal pro bono programs because individual lawyers need assistance to meet their pro bono obligation within the firm. Firms also recognise that the pro bono obligation is no longer simply an individual one, but an institutional one as well. The firm as a whole has a part

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<sup>1</sup> See for example the author's paper entitled "Pro bono lawyering in the 21st century" at page 16 of the special edition of Law In Context "For the Public Good: Pro bono and the legal profession in Australia" published by Federation Press in 2001

<sup>2</sup> For a good overview of this, see Robertson, D "Pro bono as professional legacy" at page 97 of the special edition of Law In Context "For the Public Good: Pro bono and the legal profession in Australia" published by Federation Press in 2001

to play in ensuring its resources are used to assist in the delivery of pro bono legal services.

5. The guilty secret - law is business

5.1 Not only do we see lawyers working as part of an institution, but these institutions - firms - are becoming more business focused than ever before.

The level of competition between firms for clients and staff is intense and the cost pressures of running the legal business are high. Most firms have now adopted some type of corporate management structure and apply business strategies to this task. This has brought benefits to firms, increasing profits and making the business of law far more efficient.

5.2 However, these two changes have consequences for the lawyer's role in the community, previously primarily met via pro bono work alone. First, these business benefits (or "rights") come with responsibilities. Corporate citizenship argues that a business (including a law firm) has a role as a corporate citizen to have a positive, not negative impact on the community. In a law firm, these obligations are distinct from our professional obligations. They arise out of a separate set of business, not professional, obligations. The way in which we meet these new obligations therefore stands alongside and complements our pro bono work.

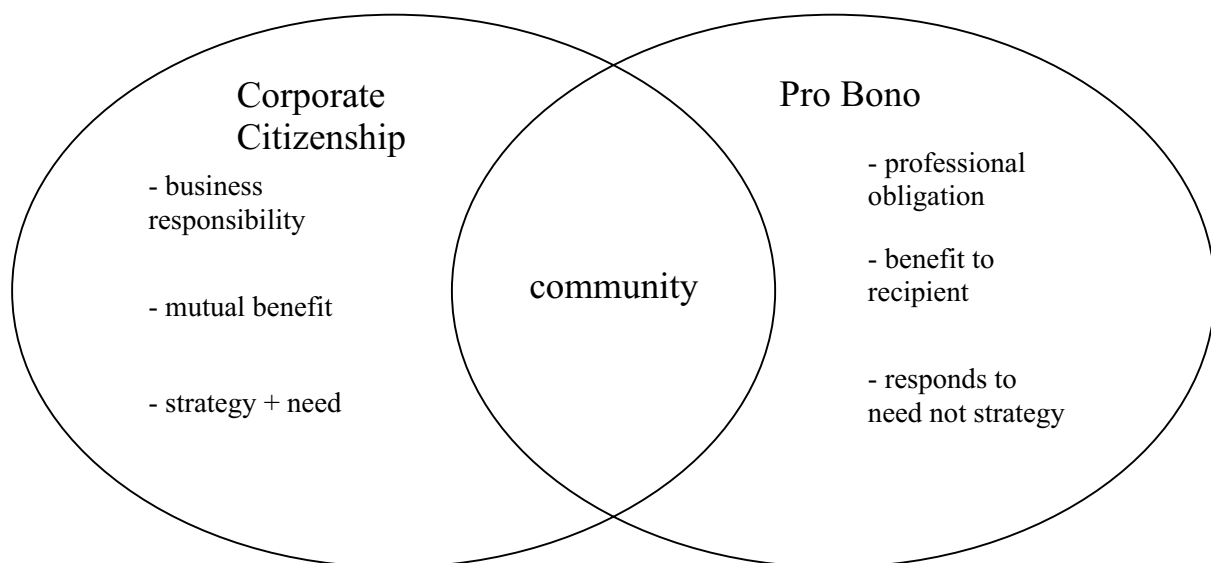
5.3 Secondly, the increasing move towards lawyers as part of institutions has also led to a dramatic increase in the "industry" to service these institutions, both inside and outside the law firm. Up to half the employees of a firm are likely to be non-lawyers, and so not subject to the same professional obligations as

lawyers (including the provision of bono services). Although of course support staff are invaluable in supporting pro bono legal work, increasingly they are seeking the support and resources of the firm for direct involvement in their community.

5.4 This is not to argue that corporate citizenship must or will "take over" from pro bono. Lawyers are the only people who can provide legal services; pro bono legal work must remain a core part of our involvement in the community. But pro bono alone is no longer enough. The resources and enthusiasm of support staff (and even lawyers doing non-legal work) can also have important benefits for the community. More than this, corporate citizenship argues that firms have a positive obligation to ensure that this happens.

6. Similar but not the same

6.1 The following diagram illustrates the dynamic between pro bono and corporate citizenship.



- 6.2 Corporate citizenship and pro bono are complementary. There will often be significant and important overlap between them. For example, a firm may provide pro bono legal services to a small community organisation which assists homeless young people. A corporate citizenship framework encourages the firm to explore the development of a much broader relationship, where other resources of the firm, from IT to HR to volunteers can be used to assist the community group.
- 6.3 Yet pro bono and corporate citizenship are also distinct. In particular, corporate citizenship is explicit in its acknowledgement that the aim is mutual benefit - it's good for the community and it's good for the business. Community partnerships and charitable giving are therefore closely aligned to the strategic business imperatives of the corporation and benefits are sought for the both company and the community.
- 6.4 In contrast, the roots of pro bono are altruistic. Many of the resulting benefits are familiar to those of us who are involved in pro bono legal work - they range from helping in staff recruitment and retention, through to alignment with clients. But this is not the reason we do pro bono - we would do it without any of these flow on effects because our professional obligation demands it.
7. Conclusion
- 7.1 There is a challenge for lawyers in considering the application of corporate citizenship principles to the business of our profession, as we redefine what it means to be a lawyer in the changing world in which we find ourselves. In particular, further reflection on the intersection between corporate citizenship

and pro bono may reveal ways in which the two are perhaps more closely aligned that might first appear to be the case. For example, perhaps there has always been an element "mutual benefit" in the provision of pro bono services - a properly functioning justice system benefits our paying clients (and therefore lawyers) as well as our pro bono clients. But that too is a subject for another paper!

7.2 A framework for corporate citizenship at the law firm can encourage lawyers to continue to think about the way they practice their profession. It should also provide ways of complementing, not weakening a firm's pro bono work.