

Government Lawyers and Pro Bono Legal Work

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The role of pro bono legal work within the legal profession and the community has become increasingly visible over the past 15 years in Australia. This is due to the delivery of pro bono legal services becoming more structured and better coordinated. This improved organisation has been accompanied by a greater commitment to the service ideal by many firms and lawyers, which in turn has led to a significant increase in the amount of pro bono legal work undertaken by Australian lawyers. The most recent ABS survey of the Australian legal profession found that 955,400 hours of pro bono legal work was done in 2007/2008 valued in that survey at \$238.2m¹.

In-house lawyers (including corporate lawyers) make up 25-30 % of the Australian legal profession but contribute only a small part² of this pro bono legal movement.

This paper explores reasons for the slow uptake of pro bono by government lawyers and suggests actions that government agencies, and individual lawyers within them, can take to play a greater part in this professional society of pro bono lawyers. The situation of government lawyers in the Australian Capital Territory is discussed.

Why then, is the pro bono contribution of government lawyers lower than that of their private sector colleagues? Both practical and cultural constraints exist.

Three key reasons are:

- an underdeveloped pro bono legal culture in government departments, agencies and authorities, this being a key driver for pro bono;
- government's capacity to support its lawyers to do pro bono work is more restricted than the capacity of the private sector; and
- government lawyers are less engaged with their professional bodies than private sector lawyers and therefore less immersed in the culture of pro bono as a professional obligation.

What is pro bono legal work?

Pro bono legal work does not lend itself to one easy definition.³ Pro bono comes from the Latin phrase "*pro bono publico*" which means for the public good and so highlights

¹Australian Bureau of Statistics, Pro Bono Work and Legal Aid 2007-2008 at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8667.0Main+Features82007-08>

²This comment is based on the limited organised government pro bono projects and anecdotal evidence from CLCs about limited government lawyer volunteers – for details see the examples later in this paper.

³Key definitions of 'pro bono' used in Australia can be found at <http://www.nationalprobono.org.au/page.asp?from=3&id=189>.

the idea of a lawyer in the service of the public good. In the legal context it generally means the provision of legal services on a free or significantly reduced fee basis for individuals experiencing disadvantage or marginalisation with no other access to the legal system or for organisations that assist those people. , It is distinguished from free work done on a contingency (a no win/no fee) basis, work done by lawyers at legal aid or community legal centres (CLCs), or work done under a grant of legal assistance from a legal aid commission.

Background about pro bono development and infrastructure

The “pro bono legal movement” has continued to evolve since it started in about the mid-1990s in Australia. Its existence today is well-illustrated by:

- structured pro bono legal programs in all of the large and increasingly in the mid-tier law firms;
- formal pro bono referral schemes and clearing houses run by legal professional associations;
- Public Interest Law Clearing House schemes established by their law firm members in Victoria, New South Wales, Queensland and South Australia;
- legal assistance referral schemes created by rules of court⁴;
- informal rosters of pro bono lawyers in some courts and tribunals taking on a duty lawyer’s role;
- inclusion of pro bono in the Commonwealth and Victorian Governments’ policy frameworks for legal assistance services, particularly ‘pro bono’ conditions in government tender schemes for the purchase of legal services from the private profession;
- conferences dedicated to the discussion of pro bono legal services; and
- the National Pro Bono Resource Centre (**‘the Centre’**).

The Centre was established in 2002 in line with a recommendation made by the Task Force established by the then Attorney-General, Darryl Williams. Its role is to promote and support the legal profession in delivering pro bono legal services.

The Centre acts as an advocate, broker, coordinator, researcher and resource provider. It works closely with the legal profession through its professional bodies, the pro bono coordinators of law firms, pro bono clearing houses and the community legal sector through the National Association of Community Legal Centres (NACLC), the State CLC federations, key CLCs and the Aboriginal and Torres Strait Islander Legal Services (ATSILS). It also provides policy advice to government.

⁴ See eg *Uniform Civil Procedure Rules 2005* (NSW) - Division 9 - court appointed referral for legal assistance, which is applicable to the New South Wales Supreme Court and District Court and Order 80 *Federal Court of Australia Rules*.

The amount of pro bono legal work done by private sector lawyers

The Centre's surveys of large and mid tier firms show that the top 29 firms alone undertook over 320,000 hours of pro bono legal work in 2010 with the median pro bono hours per lawyer increasing from 21 to 27.6 hours per year between 2008 and 2010.⁵ However, the contribution across firms varied quite considerably, even between firms of similar size.

The other major contribution comes from individual lawyers who volunteer their services at community legal centres in their own time. These include some government lawyers. These lawyers have been referred to as the lifeblood of CLCs⁶. In 2008/2009, 3,389 volunteers nationally (mainly lawyers) contributed over 329,000 hours of their time to CLCs.⁷

Areas of law and practice

Much pro bono legal work is simply the provision of legal advice. However, litigation, community legal education and law reform advocacy are also key areas of service provision.

In the 2009-2010 financial year, the areas of law and practice in which large firms provided the most pro bono services were employment law, Deductible Gift Recipient (DGR) Tax Status applications, administrative/constitutional law, debt, consumer law and incorporations.⁸ The areas of law where most firms turned down requests for pro bono assistance for reasons other than merit or means were family law, employment law, personal injury, criminal law and DGR. As employment law and DGR appear in both categories, it would seem to indicate that these were two key areas of unmet legal need.

Government's role and relationship to pro bono

Pro bono legal service is a relatively small player in the access to justice sector. The main player is the government whose *primary* role in this sector is to adequately fund legal aid, CLCs, and other government-funded legal services. Its *secondary* role is to encourage and support the legal profession to provide pro bono legal services.

In October 2005, Rob Hulls MP, the then Victorian Attorney-General, acknowledged that "government bears the ultimate responsibility for vulnerable people who need access to legal advice and representation", and that "the first line of defence in the fight for access to justice will always be legal aid, community legal centres and Aboriginal and Torres Strait Islander legal services".⁹

⁵ National Pro Bono Resource Centre, *National Law Firm Pro Bono Survey 2010* at para 3.2

⁶ St Kilda Legal Service Volunteer webpage accessed July 2012
http://www.communitylaw.org.au/clc_stkilda/cb_pages/volunteers_volunteers.php

⁷ National Association of Community Legal Centres Annual Report 2008/09 p. 2.

⁸ National Pro Bono Resource Centre, *National Law Firm Pro Bono Survey 2010* at para 4.8.

⁹ The Hon. Rob Hulls, 'Speech to Victorian pro bono coordinators workshop', 19 October 2005.

Hulls referred to government “upholding its part of the bargain” with the private profession and pointed to a symbiotic relationship between government funding for legal aid and the legal profession’s pro bono effort. The implication is that there is an unwritten agreement that the private profession’s pro bono effort is directly related to the extent to which government adequately resources primary legal assistance service providers.

Pro bono legal services are therefore conceived as complementary to, but importantly not a substitute for, government funded legal services.

Government’s role in encouragement

There are a number of important initiatives that governments have taken to encourage lawyers, particularly those in firms, to develop their pro bono practice:

- The Victorian Attorney-General's Pro Bono Secondment Scheme was launched in 2000, encouraging and supporting solicitors from private law firms to be seconded to public legal service providers in Victoria.¹⁰
- The Victorian Department of Justice’s Government Legal Services Contract scheme, introduced in 2003, requires panel law firms to commit a nominated percentage (5-15%) of the amount of fees generated from government legal work to ‘approved cause’ pro bono activity in order to be on the Panel.
- The *Commonwealth Legal Service Directions 2005* were amended from 1 July 2008 to provide that the Chief Executive of an FMA agency is responsible for ensuring that the agency, when selecting and retaining legal services providers, does not adversely discriminate against legal services providers that have acted, or may act, pro bono for clients in legal proceedings against the Commonwealth or its agencies (unless there is a direct conflict)¹¹.
- The Commonwealth Government’s Legal Services Multi User List pro bono scheme requires applicant firms to indicate that they are a signatory to the National Pro Bono Aspirational Target¹² or specify a value of pro bono legal work they intend to undertake. Government agencies are required to take this commitment into account when purchasing legal services and firms must report annually.
- A new disbursement support scheme was launched by Commonwealth AGD on 1 July 2012 that provides reimbursement of the cost of disbursements to an entity

¹⁰ In 2005, Victoria Legal Aid recommended that the Attorney-General's Pro Bono Secondment Scheme be managed by the Federation of Community Legal Centres (FCLC). The Scheme is now called the Community Law Partnerships Program and continues to foster pro bono secondments as well as a broader range of partnerships.

¹¹ *Legal Service Directions 2005*, paras 11.3-11.5

¹² The National Pro Bono Aspirational Target is a voluntary target of 35 hours of pro bono legal work per lawyer per year. It was launched by the Centre in 2007, and as at 30 June 2012 covered approximately 7000 lawyers, or 13% of the Australian legal profession. The Target is contained in a Statement of Principles and represents a minimum number of hours of pro bono legal work that all signatories aspire to undertake.

that is a party to non-criminal Australian legal proceedings provided they cannot afford to pay it themselves. These include costs of medico-legal reports, expert opinions, travel expenses, interpreters' fees and the cost of transcripts, but not court filing fees. Most of these are capped, e.g., a psychiatric report is payable to a maximum of \$3,500.

- Both Commonwealth and State governments have provided financial support for particular projects initiated by pro bono clearing houses dealing with issues such as homelessness, seniors' rights, and advice to not-for-profit organisations¹³.

The government lawyer framework

A key justification and motivation for lawyers doing pro bono work stems from the idea of the service ideal of the profession. As the Australian Law Reform Commission (ALRC) stated in 1999 in their discussion paper on the review of the Federal Civil Justice system:¹⁴

...in a world that sees lawyers in less charitable lights and where the financial and professional imperatives of practice are increasingly demanding, it is appropriate to emphasise the service ideals which characterise the legal professional ideal.

Simply put, doing pro bono work is an ethical professional responsibility. As the main possessors of legal knowledge and skills, and with a monopoly on the exercise of such knowledge and skills, lawyers have a key role to play in ensuring access to the justice system.¹⁵

Therefore government agencies should support their lawyers to undertake pro bono legal work as part of their professional development strategy. Doing so supports each lawyer's professional aspirations.

Examples

The following are examples of government lawyers doing pro bono work as part of a program supported by their agency, authority or department.

Victorian Government Solicitor's Office (VGSO)

Since 2006, the Victorian Government Solicitor's Office has seconded solicitors, each on a 12 month secondment, to the North Melbourne Legal Service (NMLS), a CLC for those who live, study or work in its catchment area of North and West Melbourne, the Central Business District, Docklands, and parts of Carlton and Parkville. Areas of practice are extremely varied, ranging from infringements, intervention orders, divorce applications, civil law matters, criminal law matters and victims of crime compensation matters.

¹³ E.g. In May 2012, The Public Interest Law Clearing House (PILCH) in Victoria was allocated \$1.2m by the Victorian State Government for its PilchConnect service that provides pro bono legal help to not-for-profit organisations.

¹⁴ The Australian Law Reform Commission, *Discussion Paper 62: Review of the Federal Civil Justice System*, [6.46]

¹⁵ See D Rhode, 'Pro Bono in principle and in practice' (2003) 53 *Journal of Legal Education* 413 at 430.

This is a particularly interesting example because it is the VGSO itself, a government department, that is making available a person on secondment, and is a demonstration of the culture of secondments started by the Victorian Government Pro Bono Secondment Scheme mentioned above. It should also be noted that the Assistant Victorian Government Solicitor, Litigation Branch is on the Committee of Management of NMLS highlighting the importance of a strong relationship underpinning a successful pro bono activity.

Australian Government Solicitor (AGS)

AGS has been a government business enterprise since 1999 and are in a unique category because they compete with private law firms for work. Under the *Judiciary Act 1903* AGS is restricted in who it can act for but nevertheless has a very active pro bono practice and is a signatory to the National Pro Bono Aspirational Target. AGS has a good written policy and a national pro bono coordinator who is available to discuss pro bono with other government departments¹⁶. It has undertaken training work for local lawyers in Papua New Guinea, and seconded a number of its lawyers to pro bono clearing houses and CLCs in various parts of Australia. Secondees are placed within the Public Interest Law Clearing Houses (PILCHs) in New South Wales, Victoria and Queensland, and in the ACT, AGS lawyers assist with the ACT Law Society's pro bono clearing house and are seconded to the Welfare Rights' CLC Street Law service where they accompany lawyers to outreach services, write up notes for the purposes of case referral and identify issues through legal research.

The Australian Competition and Consumer Commission (ACCC)

ACCC is a member of QPILCH, who have been talking to them about their lawyers volunteering in one or more of the QPILCH clinics.

The Australian Securities and Investment Commission (ASIC)

ASIC lawyers from its offices in Brisbane, Melbourne, Sydney and Perth are involved in the LawMail project, a collaboration between National Children's and Youth Legal Centre (NCYLC), Mallesons, ASIC and Telstra lawyers that provides free, online legal advice to children and young people aged 18 and under.

The lawyers log in to the LawMail service from their offices (remotely) and draft legal advice to legal questions emailed by children and young people. They are on a roster and log in once a week in each state. The program has been running for over 10 years and approximately 20 ASIC lawyers currently participate in the program.

Queensland Crown Law

Queensland Crown Law has joined the Self Representation Service¹⁷ in the State Courts coordinated by QPILCH. This is the first occurrence of direct State Government

¹⁶ Current coordinator is Ms Geetha Nair based in the Canberra AGS office.

¹⁷ The Self Representation Service provides free legal advice and assistance to self-represented parties in the Supreme and District Courts of Queensland, the Queensland Court of Appeal, the Queensland Civil and Administrative Tribunal and the Brisbane Districts of the Federal Court and Federal Magistrates Court.

involvement in pro bono in Queensland. Lawyers from the Crown Law Office are taking time out from their working days (paid working hours) to participate in the Service.

Commonwealth Attorney-General's Department (AGD)

AGD has issued a guidance note¹⁸ that explicitly supports and encourages its lawyers to do pro bono work and provides that Time Off In Lieu (TOIL) or flexitime can be used to do pro bono work and also that limited AGD resources can be used to support this work. The policy also provides for a voluntary Register of Pro Bono work so anyone in the department can easily obtain information about the pro bono work being done.

Practical Constraints

In Australia, there have been three main practical constraints to the growth of in-house pro bono:

- Practising certificates
- Professional Indemnity insurance
- Conflicts of Interest

Practising Certificates

A barrier to government lawyers providing pro bono has been the lack of government lawyers holding practising certificates.

This looks likely to be about to change. Under the *Legal Profession National Law*, all lawyers providing legal advice and services to government agencies and related statutory authorities will be required to hold a practising certificate.¹⁹

The *Legal Profession National Law* will also provide that an Australian practising certificate will authorise the holder to engage in legal practice as a volunteer at a community legal service, or otherwise on a pro bono basis.²⁰ This will confirm the position for all in-house lawyers nationally, and provide a free or low-cost practising certificate for career-break or retiring lawyers who want to do pro bono legal work.

The barrier for in-house corporate lawyers has also recently been removed. Corporate Practising Certificates (available only in some jurisdictions) only authorised the holder to provide legal advice on behalf of their employer. That is no longer the case in any state or territory of Australia. Policy changes occurred in NSW and Queensland in 2010 to authorise in-house corporate lawyers to undertake pro bono work and Victoria has now made similar changes to its practising certificate regime with the passage of amendments to the *Legal Profession Act 2004 (Vic)* in 2012.

The regulatory system for practising certificates in all States and Territories is becoming increasingly 'pro bono friendly'.

¹⁸ Guidance Note available at <http://www.nationalprobono.org.au/page.asp?from=8&id=313>.

¹⁹ National Legal Profession Reform Project, Consultation Report, 14 May 2010, p. 10.

²⁰ Clause 3.3.7(5) of the Legal Profession National Law 31 May 2011.

Professional Indemnity (PI) Insurance

Professional Indemnity insurance has primarily been a barrier only for those in-house lawyers who want to undertake pro bono work on their own behalf, as individuals, or as part of a program that does not have its own PI insurance. If the work is being done through a CLC, within a law firm pro bono program, or on some of the projects coordinated by pro bono clearing houses²¹, PI insurance for lawyers working on the project will already exist.

To address the PI insurance barrier, the Centre, with assistance from DLA Piper, the NSW Law Society, and its insurer, Law Cover, set up the National Pro Bono Professional Indemnity Insurance Scheme (“**the Scheme**”). It was first launched in NSW in July 2009 and subsequently in Victoria in May 2012.²²

The Scheme provides PI insurance cover without charge to lawyers and paralegals who wish to work on an approved pro bono project. Projects are approved by the Centre based on broad definition of ‘pro bono’ used by the Law Council of Australia with the exception that the work must be done without charge to the client, and not for a reduced fee.

Eighteen approved projects are currently covered under the Scheme, involving over 40 lawyers. These projects include a Victorian Department of Health lawyer undertaking pro bono legal work for a community organisation that provides a women’s refuge.

The application process is simple, with the form available online at the Centre’s website.²³ Once a project is approved all lawyers and paralegals who work on the project are covered, as long as the names of those providing legal services are made known to the Centre on six-monthly returns.

The Scheme also provides a template with National Pro Bono Project letterhead to facilitate individual lawyers undertaking the work and to make clear that their employer is not providing the legal advice.

Conflicts of Interest

While conflicts of interest are not a major barrier they are an important consideration.

“Section 13 of the *Public Service Act* requires every public servant to take reasonable steps to avoid any real or apparent conflict in connection with their employment.

²¹Another example of a project with its own PI insurance arrangements is the Homeless Persons Legal Service run in NSW by PIAC.

²²On 14 May 2012 its terms and conditions were approved by the Victorian Legal Services Board as an appropriate PI insurance policy for corporate legal practitioners under s.3.5.4A of the Legal Profession Act 2004.

²³ <http://www.nationalprobono.org.au/page.asp?from=8&id=236>

Conflicts of interest are not unique to government agencies. Some firms choose to target areas of pro bono work where conflicts are unlikely. Similarly government lawyers can fashion the nature of the pro bono work they do in such a way as to avoid conflicts. The provision of Community Legal Education is unlikely to lead to conflicts for government lawyers, as are areas of consumer debt, governance of not-for-profit organisations, small commercial matters, employment law, guardianship, wills, and powers of attorney, but this will vary from case to case and lawyer to lawyer. A state government lawyer could act against a Commonwealth agency without there being a conflict and vice versa.

The AGD Guidance Note on pro bono legal work states, “You must not engage in pro bono legal work which may potentially conflict with the operations of or damage the reputation of the Department”.

Each opportunity should be evaluated on its facts to see whether there is an irreconcilable conflict.

Underdeveloped pro bono culture

Pro bono is a part of the culture of the legal profession, and it fulfils an important professional responsibility of lawyers. It is therefore not surprising that the “legal agencies” such as AGD, AGS, Crown Law and the VGSO are the ones leading government lawyers in developing this culture. Embracing the pro bono culture both within the legal team and the organisation is important in the development of pro bono.

Culture grows from an understanding about why lawyers do pro bono work, and why law firms, corporations and government should support that activity. Individual lawyers are motivated by the recognition of an ethical professional responsibility. In the UK, they simply say, “It’s part of being a lawyer”.²⁴ If government is to attract and retain the best lawyers it is vital that they support all aspects of a lawyer’s professional development. The ability to undertake pro bono legal work is an important aspect of this development.

The US experience indicates that the existence of a culture that supports a pro bono ethos usually has support from the top. A good example of a supporting policy comes from the pro bono legal policy of the US Department of Justice in Washington DC that states:

While service in the Department of Justice is itself one of the highest forms of public service, the department further strives to increase access to justice for all and to strengthen our communities. The A-G encourages employees there to set a personal goal of at least 50 hours per year of pro bono legal and volunteer services.

This quote adverts to the argument that, as government lawyers already work in the public interest, why should they do pro bono work? The response is twofold. Firstly, whilst pro bono work is done to further the public interest, it is an individual professional responsibility, clearly distinguishable from a lawyer’s role as an agent of government.

²⁴First used during the 5th National Pro Bono Week in the UK (2006). See <http://www.lawgazette.co.uk/features/a-helping-hand-0>

Secondly, unique satisfaction can be gained by lawyers through helping individuals or organisations directly and personally through pro bono legal work.

The AGD policy in Australia states²⁵:

The Australian Government and the Attorney-General support and encourage pro bono legal initiatives particularly those targeted at promoting access to justice for disadvantaged people in Australia and our region. ... Pro bono legal work provides the opportunity for staff to broaden their experiences and develop their skills in areas outside their usual working environment.

Within the AGD's statement we can see the altruistic rationale of supporting access to justice for disadvantaged people, but also one of the practical reasons for support, being the development of a lawyer's skills, which is advantageous for both the lawyer and government. This occurs by a lawyer undertaking a different kind of work and interacting with practising lawyers who may be more involved in the 'cut and thrust' of everyday lawyering.

Opportunities in the ACT

According to the government lawyers committee of the ACT Law Society there are upwards of 2000 lawyers in government in the ACT. As at 30 June 2012, only 628 of them held practising certificates and 304 were members of Australian Corporate Lawyers Association, the leading association for in-house lawyers. This seems to indicate a relatively weak engagement by government lawyers as members of the profession.

The ACT Law Society established its pro bono clearing house in 2004. It was established with the dual aims of coordinating the provision of pro bono legal services in the ACT, and helping people unable to obtain Legal Aid and for whom legal assistance is not otherwise affordable. However, it has very limited resources to coordinate the provision of pro bono services in the ACT and certainly no resources to initiate new pro bono projects. It would greatly benefit from the assistance of government lawyers.

The ACT Law Society regularly receives about 3 to 4 applications a week for assistance. A committee of volunteer lawyers (that includes some government lawyers) discusses the applications received and reaches a view as to whether each meets the criteria of the scheme for referral (that include a merits and means test). The Law Society then seeks to place those matters approved by the committee with a firm or a lawyer in the ACT who will agree to take on the matter on a pro bono basis. Given that the Law Society is having difficulty placing some matters and is looking for more lawyers who are willing to consider taking referrals from the scheme, it is a great opportunity for government lawyers to contribute, especially since they are well suited to some of the matters that the Law Society is seeking to place.

²⁵Guidance Note –AGD and pro bono legal work available here:
<http://www.nationalprobono.org.au/page.asp?from=8&id=313>

CLCs in the ACT

In looking to identify unmet legal need, it is vital to work with CLCs because they have direct contact with the clients and areas where many legal issues present themselves. There are six community legal centres in the ACT, all of which are specialist centres including Street Law, an outreach legal service for the homeless run by the Welfare Rights & Legal Service (WRLS).

The CLC sector in the ACT is small and operates to capacity, with very limited resources to coordinate pro bono volunteers, particularly when training is likely to be necessary for volunteers to be effective. Also, some centres are co-housed and generally with little spare space to accommodate additional volunteers.

WRLS runs a night time legal advice service one night a week that is staffed by volunteer lawyers. Currently about 50% of these lawyers are from government and 50% from private law firms. Perhaps unsurprisingly, these government lawyers have been observed by WRLS as having strong legal research skills but little experience in dealing with difficult clients, which points to the need for training, both in client management skills and in the specific areas of law and practice involved. This however, is an additional burden on the capacity of the CLC staff. When additional volunteers are required for this service, the call is advertised in the ACT Law Society newsletter. At the time of writing, no additional volunteers were sought.

Experience shows that an investment in training²⁶ is usually an important element of a long term sustainable pro bono project, particularly when volunteer lawyers are regularly changing. Currently a very limited capacity exists for government lawyers to involve themselves as volunteers in CLCs, without additional resources to support CLCs in infrastructure and training. What may be needed is the creation of a new well-resourced project or centre to provide realistic opportunities for larger numbers of government lawyers to become involved.

Future Opportunities in the ACT

Only limited resources are available to adequately coordinate a pro bono project in the ACT. This is possibly the reason why only limited development of in-house lawyer involvement has occurred in a place with a preponderance of government lawyers. However, some opportunities to get involved exist with the ACT Law Society pro bono clearing house, which is currently looking for more volunteers.

Good pro bono projects require development and strong coordination to become sustainable. Also, they must be driven by the objective of seeking to meet unmet legal need if they are to be effective in achieving social justice outcomes and improving access to justice.

²⁶For example, training is an important element of the Homeless Persons Legal Clinics and Services that now exist in most states and territories and also a vital element of the long running LawMail service operated by the NCYLC.

Conclusion

Government lawyers are less involved with the professional bodies than their private sector colleagues. This may change if and when the *Legal Profession National Law* is enacted as it will require all government lawyers to hold practising certificates. Remembering that pro bono is a professional obligation, government lawyers' increased involvement with their professional bodies may lead to greater participation in pro bono by these lawyers.

In any event, with the increasing visibility of pro bono legal work, there is likely to be a growing number of requests from government lawyers to be involved.

The current opportunities for government lawyers to be involved in pro bono legal work are largely through individual volunteering at CLCs. However these are limited by the resources of the CLCs. Additional opportunities exist at pro bono clearing houses and may be further explored.

In working with pro bono clearing houses and CLCs, government lawyers may be able to contribute to developing new projects and directions that facilitate the involvement of even more government lawyers. This will require lawyers to take the initiative to make this happen, because good pro bono projects:

- must be driven by unmet legal need;
- will usually require a training program to adequately skill volunteer lawyers to meet the need; and
- require strong coordination of the requests for assistance and between those that provide the legal service and those that coordinate the requests for help.

Agencies

The leadership of government and its agencies and authorities, through formal written policies like the AGD policy, is important because it authorises lawyers that wish to undertake pro bono legal work to make limited use of government resources for this purpose, and to access their flexitime and leave to do pro bono work if they wish.

Agencies should see the issue of pro bono as an essential part of a lawyer's professional development. Departments, agencies and authorities should examine their employment policies and discuss with their lawyers changes that would encourage and support pro bono.

In particular they can:

- encourage their lawyers to undertake pro bono work in a personal capacity through employment policies;
- pay for practising certificates, where relevant;
- allow flexible work arrangements for pro bono legal work; and

- allow reasonable use of government agency resources (such as library, telephone and photocopying) to do pro bono work;

For agencies or authorities that take the view that they can do something at an organisational level, they can, additionally:

- second lawyers to community legal organisations;
- become members of a Public Interest Law Clearing House and receive referrals in a designated non-contentious/conflict free area of law; and
- participate in providing community legal education programs and materials.

Individuals

Individual lawyers who are interested in being involved can:

- raise the issue within their legal team and agency in the context of their agency's professional development strategy and employment policy;
- indicate their interest in being involved to their local pro bono clearing house;
- look at www.clcvolunteers.net.au to identify opportunities to volunteer at a CLC in their locality;
- look for opportunities to develop new pro bono projects working with existing pro bono clearing houses and CLCs; and
- sign up to the National Pro Bono Aspirational Target.

Pro bono work is a good story for the legal profession and overwhelmingly satisfying for those involved. It is a good time for government lawyers to become more involved!

END