

NATIONAL PRO BONO RESOURCE CENTRE
ENGAGING RETIRING AND CAREER BREAK LAWYERS IN PRO BONO
LEGAL WORK

DISCUSSION PAPER
FEBRUARY 2009

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A. BACKGROUND

This paper has been prepared by the National Pro Bono Resource Centre ('The Centre') to provide a background for parties interested in discussing the issues involved and ideas for possible pilot projects for retiring and career break lawyers to become involved in doing pro bono legal work throughout New South Wales, Queensland and Victoria. Career break lawyers are lawyers that are away from full time legal practice for a variety of reasons which might include child rearing or injury.

The paper focuses on the work done to date on the project, including substantive demographic research.

The paper also focuses on the issues associated with retiring and career break lawyers doing pro bono legal work here in Australia. These include:

- a) the location of the retiring lawyers;
- b) barriers and constraints that might exist and how might they be addressed;
- c) where are the opportunities for these lawyers and what pilot projects should be developed;
- d) how to make best use of existing skills and the training that might be required;
- e) communications strategy.

Preliminary key findings have also been included to enable a more focused discussion of the pilot project ideas.

Please note that the Centre welcomes any written submissions in response to this discussion paper if a roundtable attendance is not a possibility. Please email to sophie@nationalprobono.org.au Please phone the Centre's administrator Buffy Gilbert on 02 9385 7381 if you have any queries regarding sending the submissions.

A. WORK DONE TO DATE

This report details the research done to date, key findings and any issues identified regarding the further development of this project. There has been widespread interest in the project amongst the profession which has been extremely encouraging.

Thirty interviews have been conducted with 40 key stakeholders including public interest clearing houses (PILCH's), community legal centres (CLCs), major law firms, bar associations and law societies. Interviews have also been conducted with retiring lawyers from commercial practice, government, sole practitioner practice, suburban practice, criminal practice, and family law practice. A consultation has been completed with a retired judge now practising as a barrister. Consultations have been conducted with career break lawyers in government and commercial practice. Please see **Appendix 1**.

Substantial research has been undertaken on the demographics of the legal profession in New South Wales, Victoria and Queensland. Data was gathered from the bar

associations and law societies, the Australian Bureau of Statistics ('ABS') and the Productivity Commission of the Australian Government. Evidence below shows there is likely to be increased numbers of lawyers retiring in the immediate future.

- The report "Economic Implications of an Ageing Australia" states that "One quarter of Australians will be aged 65 years or more by 2044-45, roughly double the present proportion"¹.
- The ABS states that nationally there were over 2.3 million people aged between 55-64 years on 30 June 2007².
- The 2007 profile of solicitors of NSW prepared for the Law Society of NSW states that the age of solicitors from 50 to 60 plus constitutes 26.7% of the profession³.
- The Law Institute of Victoria 2008 Annual Report states 18% of Victorian solicitors are aged between 50 to 69 years⁴.
- The Queensland Law Society states that 24% of its solicitors are aged between 50-69 years⁵.
- The Law Society of New South Wales has reported "there is a steady increase in the percentage of solicitors who are older than 50, with the percentage in the 60 + category growing at a faster rate than the 50-59 cohort"⁶.
- The Victorian Bar reports that there are 94 retired judges and other judicial officers, 11 retired holders of Public Office other than Judicial Office and 117 Retired Counsel totalling 222 members of the bar on the Roll of Counsel⁷.
- The New South Wales Bar Association reports that 59% of members are aged between 50 to 80 years plus⁸. It should be noted that the Bar Association has advised that a lot of barristers work in paid work for many years beyond 50 years of age⁹.

Demographics for career break lawyers have been more difficult to identify, however pro bono coordinators and human resource managers from large law firms are currently being consulted and career break lawyers have been identified. Career break lawyers in the child rearing category could possibly be derived from law society data:

- Female solicitors in NSW aged 30-39 years constitute 15.3% (part of the largest group of solicitors in the profession)¹⁰.

¹ Australian Government, Productivity Commission, website www.pc.gov.au/projects/study/ageing/docs/finalreport *Economic Implications of An Ageing Australia* (2005).

² Australian Bureau of Statistics, *Population by Age and Sex, Australian States and Territories* (2007) at 33

³ Urbis, Prepared for the Law Society of NSW *2007 Profile of the Solicitors in NSW* (2007) at 8

⁴ Law Institute of Victoria, *The Power of Association 2008 Annual Report* (2008) at 5

⁵ Queensland Law Society, *80th Annual Report* (2008) at 8

⁶ Law Society of NSW, *Retaining Experienced, Over 50's Lawyers in the Profession* (2008) at 2-4

⁷ The Victorian Bar *The Victorian Bar Inc – Roll of Counsel* (November 2008)

⁸ New South Wales Bar Association *NSW Bar Association Statistics Booklet* (Volume 9, October 2008).

⁹ Consultation with New South Wales Bar Association, December 2008.

¹⁰ Urbis, Prepared for the Law Society of NSW *2007 Profile of the Solicitors in NSW* (2007) at 8

- 14% of female solicitors in Victoria are aged between 30 to 39 years¹¹.
- 31.4% of solicitors are aged between 30 to 39 years in Queensland, however no age/gender distinction appears to be supplied¹².

B. PRELIMINARY FINDINGS TO DATE

1. There is a supply and a demand within Australia. There is a demand for pro bono legal assistance to help disadvantaged people, but there is also an untapped supply of retiring and career break lawyers who are interested in doing pro bono legal work.
2. There is a huge sense of satisfaction experienced by retiring lawyers already doing pro bono legal work. They talk of a sense of purpose to their lives, intellectual stimulation, giving back to the community, mentoring younger lawyers, and doing pro bono because they have trouble dealing with suddenly being “retired”.
3. These volunteers require support and respect.¹³ In an “exploratory study of volunteering” in community legal centres called ‘*My time is not a gift*’ the volunteer respondents to a survey said that this “substantial commitment cannot be taken for granted”¹⁴.
4. The Centre’s strong relationships with our stakeholders have been crucial in identifying how to engage these lawyers/barristers in pro bono.
5. From the Centre’s practical research, retiring lawyers can be found in ‘in-house’ legal departments, courts, corporate law firms, not for profit boards, professional committees, government departments and small law firms. Continuing Legal Education sessions, law society functions and professional committees also attract retired lawyers. Career break lawyers can be found in law firms, government departments, community legal centres (volunteers) and universities.
6. The consultations with career break lawyers indicate that for many of them, their skill-sets lie in litigation as well as most areas of commercial practice. The skills that retired lawyers have identified to us are primarily in civil litigation, advocacy, criminal law, family law, real and personal securities, property, insurance, personal injury litigation, commercial fraud, commercial law, and wills and estates.
7. Lawyers surveyed suggest that career break lawyers are comfortable in doing pro bono legal work that includes discrete tasks, letter writing, short time periods in a community legal centre and telephone advices. One career break lawyer in between legal jobs suggested that some project research work would be good, to advance their skills. For some retiring lawyers, they are comfortable doing pro bono in areas they have practised in, advocacy, family law, wills, law reform work. However some lawyers expressed a need for intellectual stimulation by learning new areas of law relevant to legal issues in their age group such as elder law and law reform.

¹¹ Law Institute of Victoria *The Power of Association 2008 Annual Report* (2008) at 5

¹² Queensland Law Society *80th Annual Report* (2008) at 8

¹³ National Pro Bono Resource Centre *Mapping Pro Bono in Australia* (May 2007) at 46 and 47

¹⁴ *Ibid* at 47

8. The special needs of these lawyers to do pro bono legal work so far have included family support for minding children for some career break lawyers and training in specific areas of law for retired lawyers.

9. There are multiple volunteering opportunities for pro bono lawyers within community legal centres (CLCs).

10. There is a need for sustained coordination to strategically develop pilot projects and training to ensure retired lawyers/ barristers and career break lawyers/barristers are able to easily access and therefore actively engage in pro bono legal opportunities utilising their many years of skills and knowledge.

C. ISSUES FOR DISCUSSION

The consultations have highlighted a number of issues on how to engage retiring/retired and career break lawyers in pro bono legal work.

1. Where are retired and retiring lawyers?

The Australian Financial Review ran a legal partnership survey in 2008 regarding larger law firm older partners. The survey found that “the proportion of partners in the 56-60, 61-65 and 65+ age brackets in the 26 major law firms participating in the survey was “miniscule” when compared to partners in all other age groups”¹⁵. There was only 2.8% of people over 60 years old and “persons over the age of 65 comprised only 0.6% of partners”¹⁶. Partners aged between 30 to 40 years old comprised 75%.

The consultations with major law firms have only yielded small numbers of retired lawyers. However, major law firms are not the only source of retiring lawyers. Interest has been shown from lawyers in in-house legal positions coming close to retirement, sole practice, small suburban firms, government departments and the judiciary.

2. What barriers and constraints exist and how might they be addressed?

Consultations have shown many solicitors do not know about pro bono legal opportunities. People on career break (in NSW) who stop/hold their practising certificates whilst on maternity or parental leave do not receive newsletters or law society journals¹⁷. The members can get an associated membership which would allow for these communications to be given to them, but they have to pay for this¹⁸. One interviewee observed there is no unification (one stop shop) of pro bono opportunities in New South Wales and he thinks that people should have a clearer idea of the opportunities available¹⁹.

¹⁵ Law Society of New South Wales *Retaining Experienced, Over 50 lawyers in the Profession* (2008).

¹⁶ Ibid

¹⁷ Consultation with Law Society of NSW staff circa January 2009.

¹⁸ Ibid

¹⁹ Consultation with retired judge, New South Wales.

There needs to be better organised infrastructure in order to promote pro bono opportunities²⁰. In a July 2007 Lawyers Weekly article regarding the Centre's book, *Mapping Pro Bono in Australia*, it was stated that "inadequate government funding in some areas, mismatch of lawyers skills with the work required, perceived conflicts of interest, litigation costs and complexity, and confusion over where to get assistance were among the chief constraints"²¹ which stops people getting involved in pro bono. As John Corker, Director of the Centre stated, "[There should be] more one-stop shopping for the consumer. One to know its availability, but two, to actually find someone who will take on the case"²². Victoria has a good model in place with "all three professional association referral schemes, that is the Law Institute of Victoria, the Bar Association and the Public Interest Clearing House under the one roof, and that is managed by the one person, with the one phone number"²³. QPILCH in Queensland "has recently been granted funding for a one-year pilot project to coordinate a broader range of pro bono referrals than those solely in the public interest"²⁴. This project "will streamline the options so that any individual, not for profit organisations or other community legal centre in Queensland can contact QPILCH as the one-stop shop for pro bono referrals"²⁵.

Solicitors or barristers providing pro bono free legal assistance will personally incur costs and this means that they must be willing and able to finance both their own access to practice and the disbursements involved²⁶.

As solicitors retire or take a break from practice they elect to either let their practising certificate lapse or stop/hold it during the career break²⁷. There are also significant costs associated with retaining unrestricted practising certificates as unrestricted solicitors and continuing legal education requirements apply²⁸. Victoria and Queensland both issue voluntary practising certificates for lawyers who want to do pro bono legal work in community legal centres at no charge²⁹. However, lawyers who hold these certificates are still required to do continuing legal education and pay for this³⁰. For barristers, there are currently no voluntary practising certificates available that authorise them to practise pro bono. In New South Wales this is not encouraged as barristers can already acquire a practising certificate at a discounted rate³¹. Victoria and Queensland do not currently have voluntary practising certificates for barristers to practise pro bono³². The Law Institute of Victoria is considering

²⁰ Lawyers Weekly, *Victoria a model for pro bono* (July 2007) and National Pro Bono Resource Centre *Mapping in Pro Bono* (2005)

²¹ Ibid

²² Ibid

²³ Ibid

²⁴ National Pro Bono Resource Centre Website, *National Pro Bono News: Issue 46* (2008)

²⁵ Ibid

²⁶ Consultation with retired judge, NSW.

²⁷ Consultation with Law Society of NSW staff January 2009.

²⁸ Consultation with Law Society of NSW circa December 2008.

²⁹ Consultation with Law Institute of Victoria, Queensland Law Society, January 2009.

³⁰ Consultation with Law Society of NSW, Law Institute of Victoria and Queensland Law Society staff about practising certificates and continuing legal education requirements circa January 2009.

³¹ Consultations with Bar Association of NSW, Bar Association of Queensland and the Victorian Bar Association, circa November 2008, December 2008, January 2009

³² Ibid

categories of practising certificates to authorise retiring and out of work lawyers to have voluntary practising certificates which will authorise the lawyers to work in community legal centres³³.

Solicitors and barristers incur disbursement costs while they are doing pro bono legal work. The cost of travel, accommodation and medical reports for defendants in criminal cases are part of this and can be financially burdensome³⁴. The medical reports in particular are sometimes the only mitigating factor in application for a lesser sentence³⁵. Other disbursements include court transcripts and the cost of counsel and interpreter fees³⁶.

Funding schemes providing reimbursement for disbursements give limited assistance for pro bono civil litigation matters³⁷. In some cases the disbursement can only be reimbursed after it has been incurred. In these schemes “funds apply application fees, means and merits tests and assistance (which) can be limited to cases involving the likelihood of recovering damages. Most pro bono litigation is *not* seeking an order for damages”³⁸. Filing fees can be a hindrance, but “exemptions or waivers are available in respect of many court or tribunal fees, including exemption from setting down or daily hearing fees”³⁹. The Public Interest Law Clearing House (PILCH) (NSW) has published a *Court and Tribunal Fee Waiver Manual* which “outlines the circumstances in which fees may be waived or exempted. The procedures to be followed to satisfy the relevant regulations of each court and tribunal are also detailed. The Manual covers courts and tribunals in the New South Wales and Commonwealth jurisdictions”⁴⁰. These fee and exemption guides have also been produced by Queensland PILCH and PILCH Victoria⁴¹.

CLCs will now be able to apply for funding through the Volunteers Grants Programs found on the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) website to “contribute towards the reimbursement of fuel costs incurred by volunteers in their voluntary work, as well as grants of \$1000 - \$5000 to

³³ Consultation with the Law Institute of Victoria, circa December 2008.

³⁴ National Pro Bono Resource Centre *Mapping Pro Bono In Australia* (May 2007) at 107 and consultation with retired lawyers.

³⁵ Consultation with retired lawyer, circa November 2008.

³⁶ National Pro Bono Resource Centre *Mapping Pro Bono In Australia* (May 2007) at 107

³⁷ *Ibid* at 107

³⁸ *Ibid* at 107

³⁹ *Ibid* at 107

⁴⁰ Public Interest Law Clearing House *Court and Tribunal Fee Waiver Manual* (October 2005) at *foreword* section.

⁴¹ National Pro Bono Resource Centre, *The Australian Pro Bono Manual* states “PILCH (Vic) has produced a fee exemption and waiver guide that covers federal courts and the AAT and Victorian Courts and the Victorian Civil and Administrative Tribunal. QPILCH has produced a fee exemption and waiver guide that covers federal courts and the AAT and all Queensland courts and tribunals” (2005) at 226

purchase equipment used by volunteers, including computers⁴². Pro bono lawyers will be able to get “some reprieve from rising petrol costs”⁴³.

Depending on the type of project that is involved, professional indemnity insurance would need to be obtained. CLCs already have this to cover their volunteers as does the Homeless Persons Legal Service in New South Wales⁴⁴. The Centre are about to launch professional indemnity insurance policy for corporate and government in-house lawyers for approved pro bono projects. Beyond this, lawyers must obtain their own professional indemnity cover.

With the added pressure of the global financial crisis, people who are thinking of retiring may have to reconsider (or postpone retirement) a pro bono public service career as they no longer have sufficient super as a result of the global financial crisis⁴⁵. Separated or divorced lawyers are also often under significant financial pressure and may not be able to afford to do pro bono⁴⁶.

‘The Australian’ reported in January this year, that Australia’s 2.3 million retirees are “20 per cent poorer than they were a year ago, with the global financial crisis slashing the value of their assets”⁴⁷. Forty thousand retired people have to “move into part-time employment”⁴⁸ and lump-sum retirement payments of \$135,000 have been “reduced by at least \$25,000, but the real loss is even more than this”⁴⁹. Michael O’Neill, Chief Executive of National Seniors Australia comments that “There is no doubt a significant number of Australians have had to alter their retirement plans”⁵⁰.

One retiring consultee said that she did not like doing work that she did not feel she was competent at doing. She did not like the sense of responsibility for being liable for complaints from clients if she was not properly knowledgeable about a particular area of law⁵¹.

3. Where are the opportunities/what pilot projects should be developed/what coordination resources should be required?

The Centre conducted a survey of 20 CLCs across New South Wales, Victoria and Queensland in late January 2009. This was to research possible opportunities for pro bono lawyers. **See Appendix 4.**

The areas of law where retired solicitors could perhaps contribute include Family Law, Employment Law, Consumer Law, Equal Rights, Credit and Debt advice,

⁴² Department of Families, Housing, Community Services and Communities Strategy website www.facsia.gov.au *Volunteer Grants Program 2008 – Application Guidelines* (2008)

⁴³ Ibid

⁴⁴ Consultation with Public Interest Clearing House (PILCH) in Victoria.

⁴⁵ Consultation with government retiring lawyer, circa December 2008

⁴⁶ Ibid

⁴⁷ Website news.com.au/The Australian, Adele Ferguson, *Economic downturn forces 40,000 retirees to keep working* (January 2009)

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Consultation with retired lawyer from mid-tier firm, January 2009.

Environmental Law, Tenancy Rights, Public Interest Law, Immigration Law, Personal Injury and Mediation. The type of work includes advising clients on their rights and how to obtain legal aid, advocacy, research and litigation including drafting legal documents including solicitors letters, court motions and complaints. A number of CLCs expressed an interest in the initiative and felt that retired and career break lawyers would be more valuable to their team than law students.

The Centre has consulted with all of the stakeholders as outlined in **Appendix 1** and the following key ideas have been formed.

- A. In Sydney, Melbourne and Brisbane existing not for profit community legal centres could create a pool of retiring/career break lawyers willing to provide volunteer assistance in areas such as family law, credit and debt, housing, employment, property and neighbourhood disputes and any other relevant areas of legal need. The National Association of Community Legal Centres ('NACLC') is of the view that these lawyers could add value to the Community Legal Centres by working one to two days a week on specific legal work. The Aboriginal Legal Service ('ALS') not-for-profit organisation that could provide these opportunities. Please see attached **Appendix 4**.
- B. The PILCHs in Melbourne and Brisbane could have a pool of retiring lawyers to be available for a specialised project developed and coordinated by one of the law societies or bar pro bono schemes, to be seen as an additional pro bono resource, or a new resource. Infrastructure and funding would need to be looked at.
- C. In Melbourne, retiring lawyers or career break lawyers may like to register with the Law Institute of Victoria Legal Assistance Scheme ('LIVLAS') as an individual retired lawyer or individual career break lawyer. LIVLAS offers "facilitated meritorious pro bono referrals and coordinated cross-referral to the Victorian Bar Legal Assistance Scheme in diverse areas of law including property, probate, family law and bankruptcy. LIVLAS welcomes registration by practitioners in any area of law"⁵². Equally retired barristers and career break barristers may like to register with the Victorian Bar Legal Assistance Scheme or VBLAS "facilitates pro bono referrals in diverse areas of law including migration, human rights, administrative, family, bankruptcy, crime, tenancy and discrimination. VBLAS welcomes registration by members of the Victorian Bar in any area of law"⁵³.
- D. In Melbourne one large law firm is considering the possibility of having retired lawyers working in pro bono or consultancy positions within the firms. One firm saw the potential of career break lawyers adding value to their existing pro bono programs. For example, these lawyers could perhaps work with Homeless Persons' Legal Clinic or Seniors Rights Victoria.
- E. In Sydney and Melbourne the Centre will be attending the regional law societies meeting to discuss opportunities for pro bono lawyer opportunities in regional areas.
- F. In Melbourne, retired or career break lawyers could give corporate governance legal advice to PILCH Connect not for profit clients if they register as a volunteer lawyer with PILCH and have professional indemnity insurance

⁵² PILCH Victoria website www.pilch.org.au *Get Involved/LIVLAS*

⁵³ PILCH Victoria website www.pilch.org.au *Get Involved/VBLAS*

cover, subject to PILCH being able to provide sufficient administrative support.

- G. Bar Associations and law societies, through their existing pro bono schemes, could possibly develop teams of retired barristers and solicitors available to work on pro bono cases run by someone else (otherwise no support).
- H. Sydney, Melbourne, Brisbane - Career break lawyers could work from home on pro bono legal work in collaboration with community legal centres. PILCH could refer requests for advice. Discrete tasks may be done including drafting letters, telephone advice and referrals. Short periods of time may be spent at CLCs giving legal advice.
- I. In Brisbane, retired lawyers can join Queensland PILCH Self-Represented Civil Law Service, which “assists eligible Litigants in Person (LIP’s) with the conduct of their case in the civil trial jurisdictions of the Supreme and District Courts”⁵⁴ QPILCH is currently trying to move to new premises that will have increased space. If successful, they will have a dedicated place for retired practitioners to assist with this scheme. Retired lawyers can also be used in mediation and other services as part of QPILCH⁵⁵.
- J. Existing community legal centres based in universities with student law clerks and community centre legal staff may be places where retiring or career break lawyers might be interested to volunteer to practise pro bono but also to mentor law students.
- K. The National Children’s and Youth Law Centre (‘NCYLC’) is considering a project whereby retiring and career break lawyers could give advice about all issues concerning children and young people by an email advice system. NCYLC have developed a password-protected website which facilitates volunteer lawyers working remotely from the Centre.
- L. A regular information newsletter⁵⁶ for the projects could be set up which highlights opportunities for retired and career break lawyers to become involved and increases visibility of existing pro bono work undertaken by retired and career break lawyers. Patrons of pro bono including former justices, barristers and commercial lawyers could be attracted to create credibility and visibility as a way to promote pro bono to retiring and career break lawyers.
- M. Information products could be developed which are available to lawyers in places where retirement or career break issues are being discussed for example, Human Resources departments of major law firms, Attorney-Generals Departments (for judges) or CLCs, Public Interest Clearing Houses and law societies and bar associations.

4. **How to make best use of existing skills/ what training might be required?**

Many retiring lawyers have not worked with disadvantaged clients for many years⁵⁷. They also have specialised skills that may not be relevant to working in pro bono

⁵⁴ Queensland Public Interest Law Clearing House, website www.qpilch.org.au *Self-Represented Civil Law Service*.

⁵⁵ Consultation with QPILCH November 2008.

⁵⁶ DC Bar Pro Bono Program, District of Columbia, United States of America. They currently have a newsletter for their senior lawyer interest projects.

⁵⁷ Consultation with Public Interest Advocacy Centre (PIAC)(NSW) circa December 2008

legal areas⁵⁸. For many barristers the problem of not having a solicitor brief them is an issue both at a regulatory and practical level⁵⁹. Programs will need to be developed to support lawyers adjustment to a new voluntary position in a public interest organisation, particularly because they may have less administrative support, and may have to seek the principal solicitor's sign-off on advices given⁶⁰.

However lawyers have “a range of generalist and generic skills that can be adapted and built upon to provide useful assistance to disadvantaged clients”⁶¹ and lawyers are able to use their own skills in giving “important transactional assistance to community organisations in areas such as tax, contract, corporate governance, employment and intellectual property”⁶². One issue to be explored is to what extent some of the generalist skills for experienced retiring lawyers could be utilized to provide pro bono assistance to community organizations or charities that are involved in serving low-income or socially disadvantages persons.

5. What should the communications strategy be?

The Centre has undertaken writing briefs for different committees meetings, including Australian Women Lawyers and Victoria Women Lawyers, regarding career break lawyers and the Society of Notaries in Queensland for retiring lawyers.

Promotion of the project has also been undertaken by placing a small article encouraging retiring and career break lawyers to get involved with pro bono in the Monday Briefs email publication of the Law Society of NSW and Friday Facts email publication of the Law Institute of Victoria, and Proctor, a publication of the Queensland Law Society. Articles have been placed in the National Pro Bono Resource Centre e-newsletters promoting the project. These have led to a number of retiring/retired lawyers directly contacting the Centre.

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⁵⁸ Ibid

⁵⁹ Consultation with Bar Association of New South Wales circa December 2008

⁶⁰ Consultation with Public Interest Advocacy Centre (PIAC NSW) circa December 2008 and consultation with National Youth Children's Legal Centre (NCYLC) in New South Wales circa January 2009. Consultation with National Association of Community Legal Centres (NACLC) circa January 2009.

⁶¹ National Pro Bono Resource Centre *Mapping Pro Bono Australia* (May 2007) at 123-124

⁶² Ibid

APPENDIX 1 - INTERVIEWEES

Association/Individual	Contact Name	Title	State	Date
The New South Wales Bar Association	Alastair McConnachie	Director, Law Reform and Public Affairs	NSW	December 2008
	Heather Sare	Legal Assistance Manager to the Bar Association Entry.		
The Law Society of NSW	Michael Tidball	Chief Executive Officer	NSW	December 2008
The Law Society of New South Wales	Judi Teesdale	Pro Bono Scheme Solicitor	NSW	November 2008
PILCH (Public Interest Clearing House)	Amy Kilpatrick	Executive Director	NSW	December 2008
Public Interest Advocacy Centre Ltd (PIAC)	Robin Banks	Chief Executive Officer	NSW	December 2008
DLA Phillips Fox	Nicholas Patrick	National Pro Bono	NSW	November 2008
	Sophie Devitt	Pro Bono Coordinator	QLD	November 2008
Gilbert & Tobin	Michelle Hannon	Director of Pro Bono Services	NSW	November 2008
Freehills	Annette Bain	National Pro Bono Coordinator	NSW	November 2008
Middletons	Toby Blyth		NSW	November 2008
Minter Ellison Lawyers	Anton Hermann	National Director Pro Bono & Community Investment	NSW	December 2008
	Robert Reed	Senior Associate	QLD	

				November 2008
Mallesons	Taryn McCamley	Pro Bono and Community Programs Coordinator	VIC	December 2008
Deacons	Pat McCabe	Special Counsel	VIC	December 2008
Allens Arthur Robinson	Nicky Friedman Jaelle Berkovits	National Coordinator, Pro Bono and Community Programs Lawyer	VIC QLD	December 2008 November 2008
Clayton Utz	David Hillard Deborah Polites	Pro Bono Partner Senior Associate	NSW VIC	November 2008 December 2008
Henrik Lassen	Herbert Geer	Partner	VIC	December 2008
Corrs	Val Gostencnik Caroline O'Connor	National Pro Bono Partner Solicitor	VIC QLD	December 2008 December 2008
McCullough Robertson Lawyers	Sarah McBratney	Lawyer Community Partnerships	QLD	November 2008
Queensland Law Society	Peter Carne	Chief Executive Officer	QLD	November 2008
Queensland Law Society	Megan Mahon	President (now resigned)	QLD	November 2008
The Victorian Bar	Stephen Hare	General Manager	VIC	December 2008
The Federation of Community Legal Centres	Hugh de Kretser	Executive Officer	VIC	December 2008
Holding Redlich	Linda Rubinstein	Director Pro Bono	VIC	November 2008

Henry Davis York	Melanie Tully		NSW	November 2008
Arnold Bloch Leibler Lawyers and Advisers	Peter Seidel	Partner, Public Interest Law	VIC	December 2008
Blake Dawson	Anne Cregan	National Pro Bono Coordinator	NSW	November 2008
Victoria Law Foundation	Tabitha Lovett	Grants Manager	VIC	December 2008
National Association of Community Legal Centres	Liz O'Brien	National Convenor	Based in ACT	January 2009
California Bar Association	Rodney Low	Program Developer, State Bar of California	United States of America	October 2008
District of Columbia Bar Association	Maureen Syracuse	Director, District of Columbia Bar Program	United States of America	October 2008
Retired Former Justice of the Northern Territory	Former Justice John Nader		NSW	November 2008
Retired Lawyer	John Rowell		QLD	November 2008
Retiring lawyer	Bernadette Allas		NSW	December 2008
Retiring lawyer	Vera Dunn		NSW	December 2008
Retired Lawyer	Lex McGillray		QLD	November 2008
Career Break Lawyer	Margot Morris		NSW	November 2008
Career Break Lawyer	Paula Stirling		SA	December 2008
Career Break Lawyer	Catherine Dellitt		SA	December 2008
Retiring Lawyer	Pat McCabe		VIC	December 2008

APPENDIX 2 - RESEARCH/CONSULTATIONS OF THE SENIOR LAWYER PROJECTS IN THE UNITED STATES OF AMERICA

There are several schemes in operation in the US engaging senior or retiring lawyers in pro bono work. We have researched and liaised with the Pro Bono Institute ('PBI') in Washington DC and the District of Columbia Bar Association in Washington DC, as well as researching the work of the peak professional body, the American Bar Association ('ABA') in order to gain information about establishing and running senior lawyer projects⁶³.

Three successful senior lawyer projects have been researched in detail. The PBI's 'Second Acts' Project, the ABA's 'Emeritus Attorneys' programs and the Washington DC Bar Association's senior lawyer project have provided valuable information on the implementation of strategies on engaging senior lawyers into pro bono work⁶⁴.

Research into the US programs has also included studying the reports concerning the changing ageing demographics of the legal profession and the changes to the legal profession in terms of multiple retiring baby boomer lawyers⁶⁵.

The following issues concerning the shift of retiring lawyers into pro bono legal work in the US have been identified and will need to be considered in the Australian context:

- Legal services expenditure for the economically disadvantaged in America is a "tiny and shrinking fraction of the total amount spent on legal services in American society"⁶⁶.
- Mismatch of skills "between legal services work and skills of lawyers from private practice"⁶⁷ has presented some concern, however there are quite a few skills that lawyers can bring to a later public service career including banking, transactional work and lawyers have "counseled, negotiated, drafted legal documents, and identified resources for their clients"⁶⁸.
- Confidence levels in lawyers and the perception that there is a lack of justice. Public service careers for attorneys can improve that, lawyers could "restore...a sense of purpose to the profession"⁶⁹.
- As Esther F Lardent, President of the PBI writes "there are obvious obstacles to leveraging this enormous pool of talent to provide critically needed legal

⁶³ Pro Bono Institute website www.probonoinst.org *Second Acts* sections on "Genesis of Second Acts, Second Acts Research, Second Acts projects, DC (District of Columbia) Senior Lawyer Interest Project on website www.dcbar.org, Holly Robinson, *Emeritus Attorneys Pro Bono Participation Program*, American Bar Association undated

⁶⁴ Ibid.

⁶⁵ "Kenneth G. Dau-Schmidt, Esther F Lardent, Reena N. Glazer, Kellen Ressimyer "Old and Making Hay": *The Results of the Pro Bono Institute Firm Survey on the Viability of a "Second Acts" Program to Transition Attorneys to Retirement Through Pro Bono Work*".

⁶⁶ Marc Galanter, "Old and in the Way": *The Coming Demographic Transformation of the Legal Profession and its implications for the provision of legal services*" (1999) at 1103-1104

⁶⁷ Ibid at 1105-1106

⁶⁸ Ibid at 1105-1106

⁶⁹ Ibid at 1111

services”⁷⁰. She states that attorneys expectations must be managed as they make a transitional move from the corporate world to the non profit organisations⁷¹. The public interest community must “capture the imagination and the passion of baby-boom lawyers”⁷² to use their skills for the highest value⁷³. Lardent states there will need to be high level planning that will build strategic links that connect the experienced attorneys with not for profit organisations which are in dire need of help⁷⁴. Lardent recognises that “until a strong infrastructure is created and such programs are widely available...”⁷⁵ public interest organisations have to pull the opportunities together⁷⁶.

- Lardent talks of the Second Acts Project of the PBI which will “promote pro bono service by those attorneys interested in a second, volunteer public service career as public interest lawyers”⁷⁷. Second Acts came about because of the work of Professor Marc Galanter and his groundbreaking studies about “upcoming demographic changes in the legal profession”⁷⁸. Second Acts will “provide the necessary research, pilot projects, and technical assistance capacity to stimulate the effective pro bono and public interest engagement of senior attorneys”⁷⁹. The PBI as part of Second Acts (with some philanthropic assistance from the David and Lucile Packard Foundation) have chosen five exceptional “public interest and legal aid organisations to develop four pilot projects for seasoned and transitioning lawyers”⁸⁰. Please see **Appendix 3 Schedule of Senior Lawyer Interest Projects in United States of America.**

⁷⁰ Esther F. Lardent and Reena N. Glazer, *A Blueprint for a Big Bang: Tapping Transitioning Baby-Boom Lawyers to Transform Access to Justice* (2008) Pro Bono Institute <<http://www.probonoinst.org/pdfs/blueprintforabigbang.pdf>> (December 2008) at 5.

⁷¹ Ibid at 5

⁷² Ibid at 6

⁷³ Ibid at 6

⁷⁴ Ibid at 6

⁷⁵ Ibid at 7

⁷⁶ Ibid at 7

⁷⁷ Ibid at 7

⁷⁸ Pro Bono Institute, www.probonoinst.org *Second Acts, Genesis of Second Acts*, and Kenneth G. Dau-Schmidt, Esther F Lardent, Reena N. Glazer, Kellen Ressimyer “*Old and Making Hay*”: *The Results of the Pro Bono Institute Firm Survey on the Viability of a “Second Acts” Program to Transition Attorneys to Retirement Through Pro Bono Work*”.

⁷⁹ Ibid at 7

⁸⁰ Ibid at 8 and 9

APPENDIX 3 - SCHEDULE OF SENIOR LAWYER INTEREST PROJECTS IN UNITED STATES OF AMERICA

PRO BONO INSTITUTE “SECOND ACTS” PILOT PROJECTS

The Legal Aid Society, New York

A not-for-profit organisation providing free legal services for clients who cannot afford to pay for counsel. The society “provides legal services through a network of borough, neighbourhood, and courthouse offices in 25 locations in all five counties of New York City”⁸¹. The Second Acts pilot project “will develop original ways to enlarge the pro bono opportunities for these attorneys- as counsel, mentors, consultants in individual representation, law reform, transactional, and legislative policy work, which is designed specifically to make use of veteran lawyers’ unique talents and experience”⁸².

Volunteer Lawyers Project of the Boston Bar Association, Boston

The VLP provides free legal services to low-income and underrepresented people and communities in greater Boston. Areas of pro bono advice include housing, family law, consumer rights, and public benefits. Second Acts will “collaborate with Boston’s largest law firms to provide their transitioning and retired attorneys with opportunities to engage in significant and meaningful public interest practise and to institutionalise firm support for pro bono work as a part of retirement planning”⁸³. Second Acts will widen the Senior Partners for Justice Project of VLP to provide transitioning lawyers with formal teaching, individual mentoring, and the opportunity to partake in new areas of law and in an array of different cases and projects⁸⁴.

Bar Association of San Francisco’s Volunteer Legal Services Program and Bay Area Legal Aid

The VLSP provides legal assistance through volunteer attorneys, social workers and legal advocates⁸⁵. Bay Area Legal Aid (BayLegal) is the largest provider of free civil legal services to the disadvantaged throughout the Bay Area, irrespective of location, language or disability⁸⁶. VLSP and BayLegal are collaborating to establish a pilot project for transitioning and retiring lawyers. Second Acts will become involved by “creating an expert litigation panel to utilise the... experience of transitioning and retired attorneys to (widen) representation, and to provide mentorship to less experienced volunteer attorneys”⁸⁷. The organisations will also make use of experienced attorneys to discuss policies for redevelopment in the area, and also discuss with City officials, the District Attorney and the Police department regarding the prosecution of homeless people. By working closely with large firms in the Bay Area, “Second Acts will engage transitioning and retired attorneys in leadership roles in pro bono”⁸⁸.

⁸¹ Pro Bono Institute, website www.probonoinst.org *Second Acts*

⁸² Ibid

⁸³ Ibid

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ Ibid

⁸⁷ Ibid

⁸⁸ Ibid

Kids Matter Inc., Milwaukee

Kids Matter Inc utilises volunteers to improve the lives of children involved in the child welfare system. It is now the “largest Court Appointed Special Advocate Program in the state”⁸⁹. The Second Acts project, will engage Wisconsin’s “transitioning and retired attorneys from law firms and corporations”⁹⁰ into working in this area, including guardianship cases, complex special education matters, and helping “foster children who will age out of care by, for example, creating a limited liability checking account system with local banks”⁹¹. The Project will also engage the attorneys in policy work.

District of Columbia Bar Association, Washington DC

The DC Bar Association has set up the Senior Lawyer Public Interest Project which is part of the DC Bar Pro Bono Program. The project serves as a clearinghouse for potential pro bono placements for senior lawyers, of which there are 20,000 aged over 50. This project will serve as a potential model to observe how Australia may set up such a program⁹². It equally has a number of projects such as the National Veterans Legal Services Program (NVLSP), National Law Center on Homelessness & Poverty, AARP Legal Counsel for the Elderly (LCE) amongst many⁹³.

American Bar Association

Holly Robinson, Associate Staff Director of the American Bar Association Commission on Law and Ageing writes that “In August 2006 the American Bar Association House of Delegates adopted a resolution encouraging states and territorial bar associations and other attorney licencing entities to adopt practice rules that establish guidelines to allow pro bono legal services by qualified retired or otherwise inactive lawyers under the auspices of qualified legal services or other non-profit programs”⁹⁴. Robinson surveyed 20 active jurisdictions that have implemented the rules and have emeritus attorneys doing pro bono. Washington DC has 109 emeritus attorneys and California has 94 emeritus attorneys, followed by Oregon with “92 total members – 50 members hold emeritus status; 42 active pro bono status”⁹⁵.

⁸⁹ Ibid

⁹⁰ Ibid

⁹¹ Ibid

⁹² Consultation of THE CENTRE Senior Project Manager with DC (District of California) Pro Bono Program Senior Lawyer Projects team.

⁹³ DC Bar Pro Bono Program, website www.dcbar.org

⁹⁴ American Bar Association Commission on Ageing, *Emeritus Pro Bono Participation Programs* at 1

⁹⁵ American Bar Association Commission on Ageing, *Emeritus Pro Bono Attorney Program Survey Results* at 5-8 undated

**APPENDIX 4 – POSSIBLE COMMUNITY LEGAL CENTRE
VOLUNTEERING OPPORTUNITIES FOR RETIRING AND CAREER
BREAK LAWYERS**

Community Legal Centres	Volunteering Opportunities
Illawarra Legal Centre, Illawarra, NSW	Solicitors needed for general legal advice sessions and advocacy work. The centre covers all areas of law with a particular demand for advice on family law issues.
Inner City Legal Centre, Darlinghurst NSW	Solicitors needed for advice sessions in Employment, Gay & Lesbian Rights, and Family Law. Volunteers are expected to commit one day a month on a rotation basis.
Redfern Legal Centre, Redfern, NSW	Volunteers can participate in advice sessions in Family Law, Employment Law and Credit and Debt services. Volunteers usually work one shift (3-4 hrs) every week.
Court Support Scheme, Broadway NSW	Volunteers needed to provide Court support and administrative duties. One day per week.
Tenants Union, Surry Hills, NSW	Volunteers needed to prepare Court Complaints and Motions and drafting letters on behalf of tenants. One day per week.
Environmental Defenders Office, Sydney Metro, NSW	Volunteers can help to carry out research into Environmental Public Interest Law. One day per week. Lawyers with litigation experience are also needed.
HIV/Aids Legal Centre, Surry Hills, NSW	Lawyers with Immigration or Personal Injuries experience are needed for a night advice service.
Western Suburbs Legal Service, Newport, Vic.	Experienced lawyers welcome to participate in a general law night advice service. The centre has research resources for lawyers to familiarize themselves with new areas of law.
Public Interest Law Clearing House, Melbourne, Vic.	Research and project work available for volunteers of all levels of experience.
Mental Health Legal Service, Melbourne, Vic.	Lawyers with advocacy experience needed for Mental Health Review Board Hearings. The centre can offer training for lawyers without advocacy experience. One or two days commitment per week is expected.

Aboriginal & Torres Straight Family Violence Prevention & Legal Service, Melbourne, Vic.	Lawyers with experience in civil actions to provide advice and representation in family law matters. As the centre remunerates lawyers for their work more commitment may be needed
Disability Discrimination Legal Service, Melbourne, Vic.	Experienced lawyers needed for advocacy work and advice sessions in Disability Discrimination Law. Specific tasks would include drafting complaints and motions, mediation, policy and law reform research. Two days per week.
Women's Legal Service, Melbourne, Vic.	This centre requires volunteers with a current Practising Certificate to provide phone advice on Family and Property Law issues. The centre can offer training for volunteers with no telephone advice experience. Commitments can range from one day a week to one day month.
Refugee & Immigration Legal Service, West End, QLD.	Registered Migration Agents needed for night advice sessions. Day volunteering available for those interested in research and policy.
Environmental Defenders Office of North Queensland, Cairns, QLD.	Advice and Research volunteers needed for Public Interest Environmental Law projects.
Cape York Family Violence Prevention Legal Unit, Cairns, QLD	Lawyers with advocacy experience in Family Law and Sexual Assault matters needed.
Mackay Regional CLC, Mackay, QLD.	Volunteers needed in all areas except Conveyancing and Immigration Law for advice sessions and advocacy work. Volunteers can commit as much time as they can afford.
Tenants Union of Queensland, Fortitude Valley, QLD.	The centre runs an advice line for tenancy queries. Remuneration is provided for legal staff.