

National Pro Bono Resource Centre

Protocol for Commonwealth agencies

1. The Government encourages lawyers to provide legal services on a pro bono basis.
2. The Government recognises that it is appropriate for legal service providers to act against government and government agencies in pro bono matters where there is no direct legal conflict of interest.
3. In making purchasing or other procurement decisions relating to legal services, including decisions to terminate services, government and government agencies must not prejudice or penalise a legal service provider on the ground that the provider has or is or is likely to represent parties pro bono in actions against the Government or its agencies. The fact that a provider has or is or is likely to represent parties pro bono in actions against the Government or its agencies is not to be taken into account to the detriment of the provider.
4. Each agency is to nominate a senior person for legal service providers to contact, should a provider wish to do so, in relation to issues arising from pro bono legal work against the agency or government, including to clarify potential conflicts of interest. Issues not satisfactorily resolved in this way can be taken up with the Office of Legal Services Coordination (OLSC).
5. Each agency is to take practical steps to ensure compliance with this Protocol and report to the Attorney-General or OLSC on steps taken.
6. This Protocol applies to all forms and aspects of engagement of legal service providers including but not limited to: selecting panels of firms; making decisions to retain or to terminate the services of particular lawyers in particular cases; and engagements for expert advisory committees.
7. Nothing in this Protocol requires an agency to engage a particular legal service provider in a matter where the provider would have a direct legal conflict of interest.

April 2003