

as a law firm, how do you help?

by Anne Oregan



The provision of free legal services to people who are disadvantaged and to charitable organisations has long been regarded as part of a lawyer's professional responsibility. Within the broader context of a growing corporate social responsibility movement, ideas about where law firms should direct their contribution to the community present a new challenge. Anne Oregan reports.

In the last three or four years, influenced by the growth of corporate social responsibility, the large commercial law firms have begun to develop formal community service programs offering opportunities to their staff to volunteer on the firm's time to causes with the firm's imprimatur.

At first glance, the introduction of formal community service programs would seem an uncontentious, and indeed a positive thing. It has become, however, the cause of heated debate in the otherwise civil and congenial pro bono community.

In the working life of a commercial lawyer, time is everything. Lawyers are paid by their clients for their time and are operated and remunerated by their firm, in part, on the time they bill. Time is also the currency of contribution to both pro bono legal work and community service. Therefore the problem for firms trying to run both a community service and a pro bono program – the resource is finite and pro bono and community service must inevitably compete for that scarce resource.

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In survey after survey, lawyers state that their main barrier to doing more pro bono work is lack of time. In any competition between pro bono and community service for that limited time, community service has a couple of significant advantages. Community service generally offers the opportunity to do something different – something with limited responsibility which is itself pleasurable, such as helping children learn to read or going with a group of colleagues on a working bee to a school or welfare organisation.

In pro bono legal work, while there is great satisfaction to be had, the satisfaction may be less immediate and is often abstract. In pro bono work, too, you are usually asking lawyers to do something they do day in and day out anyway.

does it matter?

Should we care whether law firms are contributing through community service rather than using the time to provide pro bono legal services? Those of us who believe that firms should concentrate on the provision of legal services argue that it matters a great deal.

Lawyers have particular skills and experience which do not exist outside the profession. They have a legislative monopoly on providing legal service and assistance, and that advice and assistance is in high demand from people who, without pro bono legal services, would not otherwise have recourse to the law.

As well as the time threat to pro bono from community service, there is danger also in the increasing conflation of the two. The terms 'pro bono', 'community service' and 'corporate social responsibility' are often used interchangeably in the pro bono area. With conflation of these terms, it is easy for firms to forget their professional responsibility to provide legal services to those in need, and to consider that they have fulfilled their requirement to assist the community when the bulk of their contribution is through community service.

so can you have both?

Those who in law firms who argue in favour of formal community service programs would say you can have both. They point to the fact that more than half the people employed in large firms are not lawyers, and argue that a community service program is necessary to give those staff an opportunity to contribute.

It is certainly true that more than half those working in large firms are not lawyers. Setting aside the fact that community service programs are not limited to the non-lawyers in a firm, everyone working in a law firm is there because they have skills that contribute to the practice of law. It is more valuable to the community for the non-legal staff of a firm to contribute to the provision of legal services using the skills for which they are employed.

The librarians in our firm, for example, provide research support to those lawyers in community legal centres and Aboriginal legal services doing excellent work with limited resources. Our IT people have set up databases and document management systems for community legal organisations. The word processing people type up affidavits for lawyers in the community legal sector. In this way they can use their expertise to its best advantage and contribute to the discharge of the firm's professional responsibility to make the law accessible to those without the ability to use it.

Community service is certainly valuable and people working in law firms have a range of skills and experience they can bring to community work. If there was not such a huge need for free legal services, it would be hard not to support community service programs wholeheartedly. It is no coincidence though that firms with strong community service programs seldom have strong pro bono programs and vice versa.

In an environment of high and rising unmet legal needs, the legal services a law firm can provide are unique and are more valuable than the contribution a firm can make (at the same cost) through community service. Just as it would be absurd for a plumber to make the sandwiches at a welfare organisation when the stove are flooding its kitchen, when so many people can't afford to access our legal system to enforce their rights or resolve their difficulties it makes little sense for law firms to be doing anything other than assisting those people to gain access to the greatest extent we can.

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