

## **The National Pro Bono Resource Centre**

The National Pro Bono Resource Centre (the Centre) was established by the Public Interest Advocacy Centre in partnership with several partner organisations and with financial support from the Commonwealth Government and the Law Faculty of the University of New South Wales.

The Centre is an independent, non profit organisation that aims to:

- encourage pro bono legal services,
- support lawyers and law firms to make it easier for them to provide high quality pro bono legal services, and
- work with the profession and the community sector to match services with the clients and groups most in need of assistance.

The Centre promotes and supports pro bono by publishing information and undertaking other activities. Details of the Centre's publications, current activities and projects in development are available at [www.nationalprobono.org.au](http://www.nationalprobono.org.au).

The Centre is a member of the Combined Community Legal Centres Group (CCLCG), but does not receive funding through the CLSP. However, an integral part of the Centre's work is with the community legal sector.

### **The Centre's submission to the CLC Review**

Given the Centre's aims and focus, and the terms of reference of the CLC Review (the Review), we have chosen to comment only on the Review's terms of reference as they relate to the delivery of pro bono legal services to disadvantaged members of the community in collaboration with community legal centres (CLCs). This submission will provide the Review with information about the amount and nature of pro bono legal services being undertaken in New South Wales with CLCs, and comment on some of the initiatives to further promote and support that work.

The Centre believes that for CLCs to make the most of the considerable (but not limitless) goodwill of the private legal profession to contribute pro bono services to assist disadvantaged people, CLCs must be given better funding to allow them to divert some resources towards developing pro bono relationships, be it with volunteers, partnerships with firms, secondments or working collaboratively on joint projects to further enhance access to justice.

The Centre believes there is a need for greater coordination between CLCs and pro bono service providers, and to raise awareness of the opportunities that exist to work together.

### **The role of pro bono in delivering legal services to the disadvantaged people in the community**

Lawyers in Australia provide a significant amount of pro bono legal services to low income and disadvantaged people. However, pro bono legal services are not, and cannot be a substitute for properly publicly funded legal services; pro bono services can only supplement them. Neither the continued existence of voluntary contributions of lawyers, nor any increase in such contributions, can make up for the shortfall in funding for legal aid and CLCs.

There is little doubt that the reductions in funding to some parts of the legal aid system have resulted in an increase in demand for pro bono legal services.<sup>1</sup> There is some evidence of cynicism in the profession that their contribution of pro bono services allows governments to renege on their funding commitments and to avoid their responsibilities to people in need. However, the reality is that government does not provide, and has not provided for some time, adequate levels of publicly

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<sup>1</sup> See Jill Anderson and Gordon Renouf, 'Legal Services "for the public good"' (2003) 28(1) *Alt LJ* 13 at 16.

funded legal assistance. It is in the context of this difficult reality that the Centre makes the following submission.

## **Pro bono work with CLCs: the need for a well-funded community legal sector**

Pro bono legal programs ideally aim to respond to the legal needs of disadvantaged people and communities. This is best done by developing strategies for identifying and sourcing pro bono work that goes some way to assist meeting unmet needs. The Centre believes that developing partnerships with community organisations is one of the most effective ways for lawyers and firms to ensure that their pro bono capacity is directed to areas of greatest need. In this regard, CLCs (and legal aid bodies) are best placed to identify and make informed pro bono referrals on matters of real need. Pro bono coordinators consistently report that the most successful programs are a result of close and ongoing working relationships with CLCs, and that without a well-resourced community (and legal aid) sector, pro bono programs would not be effective.<sup>2</sup>

Ongoing pro bono partnership arrangements between private sector pro bono providers and community organisations, including CLCs, reflect goodwill and a recognition of the mutual benefits of investing in these relationships. The point made by the National Association of Community Legal Centres (NACLC) is salient here: greater government investment in community legal services is likely to leverage even greater willingness and support from the private profession to increase their commitment to pro bono, and would include longer term pro bono partnerships.<sup>3</sup> Greater and more consistent government investment in CLCs would go some way to reduce the cynicism in the profession that pro bono is being seen as an inappropriate substitute for adequately publicly funded legal services for disadvantaged people,<sup>4</sup> and would encourage lawyers to provide (more) pro bono services.

## **Models of pro bono service delivery**

This section will describe some of the ways in which these models of pro bono service delivery involve collaborations with CLCs.

Pro bono services are provided in many ways by firms and individual lawyers. Most commonly, pro bono delivery involves 'in-house' work done in the course of a lawyer's practice. Pro bono assistance is also provided through volunteering (most commonly through a CLC or other community organisation) through secondment of staff to community organisations and sending staff to outreach services, through working at specialist legal services, and through 'multi-level' or 'multi-tiered' relationships with firms and community organisations. Firms are also increasingly involving themselves in providing strategic assistance to CLCs with law reform and community development projects.

### ***In-firm pro bono and CLCs***

In-firm pro bono can involve advice to and representation of individual clients on a pro bono basis, but may also involve 'transactional' assistance to community organisations that assist those

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<sup>2</sup> See submissions by Minter Ellison, Clayton Utz, Gilbert + Tobin, Blake Dawson Waldron Lawyers and Freehills to the Senate Legal and Constitutional References Committee Inquiry into Legal Aid and Access to Justice at [http://www.aph.gov.au/senate/committee/legcon\\_ctte/completed\\_inquiries/2002-04/legalaidjustice/submissions/sublist.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2002-04/legalaidjustice/submissions/sublist.htm); see also Joint Submissions by pro bono programs of Allen Arthur Robinson, Baker & McKenzie, Blake Dawson Waldron, Clayton Utz, Gilbert + Tobin and Henry Davis York to the Attorney General's Department Federal Civil Justice Strategy Paper at <http://www.nationalprobono.org.au/publications/other.html>.

<sup>3</sup> NACLC, *Doing Justice* at 15.

<sup>4</sup> See Senate Legal and Constitutional References Committee Report *Legal Aid and Access to Justice* (June 2004), at p169-170, and references to submissions therein.

individuals, for example, by providing assistance to a CLC with its administrative, human resources or management committee needs.<sup>5</sup>

Most firms with structured pro bono programs rely on the assistance of the community legal sector (and legal aid bodies) for a significant proportion of their referrals of pro bono matters, and also for training and other input (discussed in further detail below). Law firms making submissions to the recent Senate Legal and Constitutional References Committee Inquiry into Legal Aid and Access to Justice all reported their reliance on CLCs as the preferred source of work for their pro bono programs, including firms' in-house, secondment and special partnership programs.<sup>6</sup> CLCs are often best placed to have contact with clients in need and to identify and make informed referrals of pro bono matters to practitioners willing to provide pro bono assistance. CLCs also provide a very important filtering role that allows pro bono resources to be efficiently utilised. However, making and 'packaging' referrals of pro bono matters for CLCs are time and resource intensive for CLCs. There is some anecdotal evidence that CLCs are forced to turn away clients who could otherwise access pro bono assistance from firms as they simply have not had the time or resources to facilitate referrals.

Firms can, and increasingly do, contribute to community legal education and law reform projects in collaboration with CLCs. Some examples of the ways in which law firms can work with CLCs on these initiatives are documented in the Centre's paper *Law Reform and Community Legal Education* annexed to this submission.<sup>7</sup> Indeed, the contribution of private law firms to law reform issues and public policy has been referred to enthusiastically by politicians.<sup>8</sup>

### ***Volunteering in CLCs***

CLCs provide an opportunity for disadvantaged people to access significant pro bono services provided by volunteer lawyers, students and others who 'staff' advice sessions at CLCs or otherwise assist CLCs with their day-to-day administrative needs.

In 2003, NACLCL conservatively estimated that the assistance provided by volunteers to CLCs across Australia amounted to \$21.5 million per year, a substantial contribution to the Community Legal Services Program.<sup>9</sup> NACLCL makes the strong point, echoed in sentiments that the Centre hears in the course of its consultations with law firms, that government investment in publicly funded services is very likely to leverage a further significant contribution to pro bono work from the private legal profession.<sup>10</sup>

The Centre also notes the link between individual lawyers volunteering at CLCs and the tendency of these lawyers to take matters back to their firms for in-house pro bono assistance. Volunteering is an important vehicle to 'capacity-build' private firm pro bono output, and as such, any means to assist CLCs to enhance their volunteering capacity must be encouraged.

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<sup>5</sup> This kind of assistance is explored further in the Centre's *Working Together* paper, discussed below and annexed to this submission.

<sup>6</sup> See individual submissions of law firms Blake Dawson Waldron, Clayton Utz, Freehills, Minter Ellison Lawyers and Gilbert + Tobin, available at [http://www.aph.gov.au/senate/committee/legcon\\_ctte/completed\\_inquiries/2002-04/legalaidjustice/submissions/sublist.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2002-04/legalaidjustice/submissions/sublist.htm).

<sup>7</sup> Also available at <http://www.nationalprobono.org.au/publications/archive.html>.

<sup>8</sup> Clayton Utz and Arnold Bloch Leibler, working closely with CLC lawyers, made submissions to the Senate Inquiry into the Disability Discrimination Amendment Bill 2003 (Cth) which, by their own account, focussed on the purely legal and technical rather than social and economic aspects of the Bill. Their persuasive submissions were repeatedly cited by the Committee in its consideration of the need for and potential effects of the Bill; See also Senate Legal and Constitutional Legislation Committee, Parliament of Australia, *Provisions of the Disability Discrimination Amendment Bill 2003* (2004) 5-34 and see Commonwealth Senate Legal and Constitutional Legislation Committee, *Hansard*, 16 March 2004, 48 (Senator Marise Payne) ; see also Philip Lynch and Alex Wodak, 'Partnering for Public Health: seeking socially just policy and outcomes for drug users', in (2004) 29(4) *Alternative Law Journal* 168 at 171.

<sup>9</sup> for the year ending July 2003. See NACLCL, *Community Legal Centres – An Investment in Value, Investing in Community Law, Budget Submission to the Commonwealth Government 2004-2007* (August 2003) at 16.

<sup>10</sup> NACLCL, *Doing Justice: Acting Together to Make a Difference* (August 2003) at 15.

### ***Quantitative data on volunteering at CLCs***

There is little hard quantitative data on the amount of volunteering carried out in CLCs. The most recent exploratory survey on volunteering in NSW CLCs, *My Time is Not a Gift to Government* (*My Time is Not a Gift*) was published in 2002. *My Time is Not a Gift* estimated that volunteers (legal and non-legal) in the study period provided approximately 1909 hours per month to NSW CLCs.<sup>11</sup>

Illawarra Community Legal Centre has, by survey, updated some of the data from *My Time is Not a Gift*.<sup>12</sup> The aim of the update is to provide a current snapshot of the volunteer landscape in NSW CLCs. From the responses received (and provided to the Centre) there are currently 775 volunteers volunteering in NSW CLCs<sup>13</sup>. Of those, metropolitan CLCs have twice as many volunteers as regional, rural and remote (RRR) CLCs.<sup>14</sup>

NACLC collects some quantitative data on volunteering in CLCs. On the basis of data collected in the June-July 2003-2004 financial year,<sup>15</sup> NACLC estimates that lawyers provided approximately 1000 hours per month to NSW CLCs, and non-lawyers around 4200 hours per month.<sup>16</sup> On this basis,<sup>17</sup> a conservative estimate of the dollar value of lawyers' monthly contribution to volunteering in NSW CLCs would be around \$250,000 per month. Estimating non-lawyers contribution is difficult, but using the figures of estimated incomes from *My Time is Not a Gift*, the monthly contribution would be around \$210,000 per month.

### ***How do CLCs and volunteers find each other?***

There is some evidence that some volunteer organisations are engaged in "market-type" strategies to entice people to volunteer, and that the overall pool of volunteers is shrinking, thus forcing many agencies to compete more openly and rigorously with each other for volunteers.<sup>18</sup>

Anecdotally, it appears that many people become a volunteer at a CLC in the first instance through a word-of mouth referral from someone who already has an association with the CLC but there are many, such as law students, who contact CLCs regularly looking for volunteering opportunities. Responding to queries from potential volunteers takes time.

In response to some of these issues, the Centre and NACLC have developed a joint project "CLC Volunteers". The project, which builds on the work of [www.lawvolunteers.org.au](http://www.lawvolunteers.org.au) developed in Victoria by the law student societies of Monash and Latrobe Universities, has developed a database of volunteering opportunities at all CLCs nationally, and is accessible and searchable by the public through a web interface found at [www.clcvolunteers.net.au](http://www.clcvolunteers.net.au). The website also includes answers to "Frequently Asked Questions" by potential volunteers as to what is involved, what is expected and what is the minimum commitment. Each CLC is able to vary their information and status (with "seeking" or "not seeking" volunteers) in the database by advising NACLC of the changed status. It is to be launched in early 2005.

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<sup>11</sup> *My Time is Not a Gift*, at 38. The relevant period was February/March 2000.

<sup>12</sup> At the time of writing, the full report of this update was not available to the Centre.

<sup>13</sup> based on numbers of volunteers at NSW CLCs in October 2004. Note that not all CLCs responded to the survey.

<sup>14</sup> it should be noted that not all CLCs responded to this survey.

<sup>15</sup> It must be noted that this data is clearly an underestimate of volunteer numbers and hours, as not all CLCs submitted data for the relevant period.

<sup>16</sup> Based on the following data for the relevant period: 525 and 435 non-lawyers lawyers volunteering in NSW CLCs, providing respectively 245 and 1046 hours of their time per week.

<sup>17</sup> And noting the methodological problems of estimating overall monetary contributions – see discussion on *My Time is Not a Gift*, at 52.

<sup>18</sup> *My Time is Not a Gift*, at 15.

### ***Who volunteers at which CLCs and what do they do?***

Legal professionals, law students and others volunteer their time at CLCs. *My Time is Not a Gift* found that majority of volunteers are legal professionals,<sup>19</sup> that a high proportion of those had considerable experience in the legal profession,<sup>20</sup> and that a high proportion of volunteers had a long term commitment to the CLC.<sup>21</sup> Interestingly, the Illawarra CLC update found that the gender split of volunteers was 60:40 female to male.

It is apparent that inner-city metropolitan CLCs are, in general, well-placed to utilise volunteers, while RRR CLCs do not have such a large pool of volunteers available to them.<sup>22</sup> Lawyers volunteering at RRR CLCs are also more likely to experience conflicts of interest than those volunteering in metropolitan CLCs. Many CLCs with links to universities have the advantage of having a relatively large base of law. student volunteers.

Some of the more recently funded Justice Statement CLCs have managed to retain links with their original base of lawyers from when the CLC was an entirely volunteer-run service. Most RRR CLCs with little local volunteering support have the added disadvantage of not being able to access volunteer law students. It is also likely that the rising costs of legal practices and tort reforms have had a disproportionate affect on smaller, private lawyers practices in RRR areas, which in turn has affected the capacity of these lawyers to undertake volunteering work in their local CLCs (or indeed take pro bono referrals from CLCs in-house). There is also evidence that some CLCs in RRR areas have been forced to reduce or cease their advice services as they were unable to staff these sessions with volunteers and paid staff. As noted in further detail below, dedicating resources into recruiting volunteers has an immediate and direct effect on a CLC's ability to provide services for their communities.

Volunteers at CLCs provide an enormous and varied amount of assistance which may include administrative work including front desk reception, library maintenance, data input, filing, photocopying and processing mail. Depending on their legal expertise and qualifications, they may provide direct legal advice, paralegal support to legal staff, assist on policy, community legal education and law reform initiatives, undertake file work, field client telephone enquiries, provide referrals to other agencies or CLCs, draft letters, provide court support, and/or participate in management committees.

### ***Why do volunteers volunteer at CLCs?***

The literature review in *My Time is Not a Gift* found that there is no consensus about what, in general, motivates people to volunteer.<sup>23</sup> *My Time is Not a Gift* indicates that volunteers in NSW CLCs most frequently reported altruistic reasons for CLC-based volunteering. It was the opportunity to help others, working for social justice, a strong agreement with the philosophy of the CLC, a sense of fulfillment and the desire to make a difference that were the primary motivating factors.<sup>24</sup> 'Instrumental motives', such as career development and work experience were also factors which motivated volunteering, but these were not nearly as significant as the 'social justice' motives.

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<sup>19</sup> 58.1% solicitors, 4.2% barristers, 4.2% law graduates. Law students accounted for 21.5% of volunteers and 12% 'other' included those with legal backgrounds. See *My Time is not a Gift* at 36.

<sup>20</sup> Approximately 40% of the volunteers had over 10 years experience in the legal profession, see *My Time is not a Gift* 36

<sup>21</sup> Approximately 66% of volunteers had volunteered at a CLC for 2 – 10 years. Over 26% had been volunteering for over 10 years.

<sup>22</sup> This seems contrary to some evidence of higher volunteer activity in regional and rural areas than in capital cities as noted in some of material reviewed in *My Time is Not a Gift*, at 21. However, this may reflect volunteerism in areas other than legal volunteering (see *My Time is Not a Gift*, at 21, footnote 5) Note also that the Illawarra Legal Centre update to the survey found that metropolitan CLCs have twice as many volunteers as RRR CLCs.

<sup>23</sup> *My Time is Not a Gift*, at 31.

<sup>24</sup> see *My Time is Not a Gift*, at 40-41.

### ***What affects volunteers' commitment to CLCs?***

The statistics on volunteering at CLCs tell us that CLCs are fortunate to be able to attract and retain very skilled and committed professionals to assist them with the core aim of enhancing access to justice. However, respondents' comments in *My Time is Not a Gift* indicate that this substantial commitment cannot be taken for granted: it appears that this dedication is susceptible to policy and structural changes.

The literature review in *My Time is Not a Gift* pointed to evidence from British studies which found that volunteers are sensitive to policy changes, including government policy, and policies such as contracting and competitive tendering can reduce the incentive and motivation of volunteers.<sup>25</sup>

Evidence of this sensitivity to policy changes was also borne out in *My Time is Not a Gift*: comments made by volunteers clearly articulated their identification with CLCs, and their commitment to assisting disadvantaged people and the CLCs.<sup>26</sup> The survey indicated that any attempt to alter the structure and nature of CLCs would clearly affect volunteers' ongoing commitment to the CLC: "volunteers [in the survey] are committed to the philosophy and current structure of CLCs, their community focus, independence from government, and the ability to be critical and advocate on behalf of people."<sup>27</sup> It is notable that a significant number of volunteers stated that they would not volunteer in a radically restructured work environment, nor would they volunteer for a privately run or for-profit organisation.<sup>28</sup>

### ***The costs to the CLC of working with volunteers***

As suggested in *My Time is Not a Gift*, infrastructure and coordination costs of recruiting, training, supervising, rostering and supporting volunteers must be included in any funding formula.<sup>29</sup> Other steadily increasing infrastructure costs for CLCs include compliance with occupational, health and safety obligations, insurance costs, and the costs of appropriately managing the CLC's corporate governance obligations (noting CLC management committees are generally staffed by volunteers). Coordinating volunteers is not cost-neutral for CLCs, but it is rarely costed into CLC budgets, and possibly only a handful of the larger CLCs have volunteer coordination factored and budgeted into a worker's job description. For smaller CLCs, these infrastructure costs of implementing and maintaining a volunteer program are simply prohibitive. With extra funding to support the infrastructure costs for volunteers, CLCs could increase their service delivery capacity.

Some CLCs have well-established volunteer programs for law students, lawyers and/or non-lawyers. Many CLCs rely heavily on students for research and litigation support. While volunteers are recognized as a critical resource for CLCs, resources required for the development, maintenance or expansion of volunteer programs can be considerable.

Those CLCs interested in enhancing more formal student volunteer programs are rightly wary of the costs of doing so. It is clearly labour and time intensive for a small organisation to resource and maintain a structured volunteer program with appropriate supervision, performance criteria and training components, and to ensure that the experience is also rewarding for the volunteer, and that

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<sup>25</sup> see references in *My Time is Not a Gift*, at 31.

<sup>26</sup> *My Time is Not a Gift*, at 44-54, 56,57.

<sup>27</sup> *My Time is Not a Gift*, at 53; see also Jeff Giddings and Mary Anne Noone, *Local, Regional or Super? Australian Community Legal Centres in the Purchaser-Provider Age*, paper delivered at International Legal Aid Group (Harvard 2003) at 22, 30 available at <http://ilagnet.org/conference/ilag2003.htm>.

<sup>28</sup> of concern here is the recent Commonwealth Government's tender process for the provision of legal services to Indigenous Australians. It is likely that the capacity of CLCs and ATSILs to attract in-kind assistance including volunteering and pro bono assistance would be adversely affected by such restructuring of service delivery. See National NACLIC's Supplementary Submission 84B to the Senate Legal and Constitutional References Committee Inquiry into Legal Aid and Access to Justice at [http://www.aph.gov.au/senate/committee/legcon\\_cte/completed\\_inquiries/2002-04/legalaidjustice/submissions/sublist.htm](http://www.aph.gov.au/senate/committee/legcon_cte/completed_inquiries/2002-04/legalaidjustice/submissions/sublist.htm).

<sup>29</sup> *My Time is Not a Gift*, at 58.

volunteers are appropriately supported.<sup>30</sup> Of interest here is the successful initiative in Western Australia of an alliance of educators, community legal service providers and paralegals whereby a network of trained and mentored paralegal volunteers work with community representatives to assist in outreach service delivery.<sup>31</sup>

It is clear that many CLCs are fortunate to be able to leverage the goodwill of many volunteers to assist them. While there is, in general, a disparity in the availability and numbers of volunteers in metropolitan and RRR CLCs, all CLCs are conscious of the increasing burdens on both volunteers (burn-out) and CLCs staff in recruiting, organising, training, supporting and retaining volunteers. While some CLCs may not have difficulties recruiting volunteers, the problem is the lack of time and resources to effectively coordinate and manage volunteers: paid staff already have too many demands on their time.

There is clear evidence that allocating funding to a volunteer coordination position greatly increases a CLC's capacity to recruit, train, support and coordinate volunteers which in turn flows onto increased access to justice by increasing CLCs' capacity to deliver services to their communities. By way of example, the Centre notes Central Coast Community Legal Centre's (CCLCC) submission to the Review, and in particular the CCLCC's Court Assistance Scheme<sup>32</sup> which employs a social worker who also coordinates volunteer youth and welfare workers to provide support to young people and their families in their dealings with the Childrens' Courts at Wyong and Woy Woy. In its first year of operation, the project worker recruited more than 20 volunteers who have provided court assistance on more than 3000 occasions.

### ***Pro bono partnerships with CLCs***

Pro bono assistance can be provided in a variety of ways beyond providing advice, assistance and representation of clients. Firms are increasingly forming partnerships with CLCs and other community organisations, combining the skills, knowledge and resources of CLCs and private firms and barristers. Some of these innovative initiatives are documented in the Centre's paper *Working Together: Multi-tiered pro bono relationships between law firms and community legal organisations*, which is annexed to this paper.<sup>33</sup> As the case studies described in *Working Together* make clear, partnerships between firms and community organisations create close connections between both parties, leading to greater trust, familiarity, responsiveness and a willingness to extend assistance innovatively and more effectively than one-off referrals.

### ***Working together to address mismatch of expertise and needs***

Recognising that one of the bigger hurdles for pro bono is addressing the apparent mismatch between areas of law with the highest unmet legal need and the appropriate capacity and expertise in the private legal profession to meet that need, CLCs and law firms are increasingly working together to coordinate training sessions for pro bono lawyers. For example, some firms and CLCs have organised training for lawyers to participate in particular services at CLCs<sup>34</sup>, or to provide

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<sup>30</sup> The following 2 examples illustrate the resource issues faced by CLCs with student volunteer programs. North and North West Community Legal Service originally had a 3-day initial training program for their student volunteers, which has been cut back to a half-day session. Similarly, the Environmental Defender's Office (NSW) has a well-established student volunteer program which includes students volunteering one day a week, and a 16-week full-time student intern program which fulfils the practical component of the NSW solicitor admission requirements.

<sup>31</sup> See *Report of the Western Australia CLC Review* (September 2003) at 32.

<sup>32</sup> Funded by the Legal Aid Commission of NSW.

<sup>33</sup> Also available at <http://www.nationalprobono.org.au/publications/archive.html>

<sup>34</sup> For example, Marrickville Community Legal Centre has initiated an arrangement with some firms with pro bono practices whereby the CLC provide the firms with training and support to take more work in the areas of victims compensation, domestic violence and sexual assault, and firms may make their pro bono training available to lawyers in other firms, as well as to their own lawyers. For example, Blake Dawson Waldron has twice designed and organised training programs, each attended by around 40 lawyers from several firms, to equip participants with the skills necessary to represent clients referred from CLCs in defended applications for domestic violence orders.

assistance in a particular area of law, for example, refugee law<sup>35</sup>, child support law, homelessness<sup>36</sup>, and more recently in discrete areas of family law<sup>37</sup>. While the provision of training by CLCs to pro bono providers may well have a long term net benefit to both parties and enhance disadvantaged people's access to pro bono services, the potential for this to affect the stretched resources of CLCs must be noted: these initiatives are not cost-neutral for CLCs. It must also be noted that while some areas of need may be addressed by training, this should be seen only as a complementary measure to meet unmet needs: the optimum solution should be a commitment from government to consider ways to directly increase its assistance.<sup>38</sup>

Conversely, private firms can, and are, providing training and professional development assistance to CLCs. For example, some law firms have provided free training sessions on legal matters for not-for-profit organisations on areas such as tax, employment, risk management, privacy law and contracts; others are providing free CLE to community lawyers on consumer protection and trade practices law. The Centre is also encouraging law firms to open out their in-house professional development seminars to CLC workers.

### *Regional, rural and remote (RRR) CLCs*

The Centre notes the Regional, Rural and Remote Network of the CCLCG's submission to the Review, and the particular difficulties faced by those RRR CLCs in providing services to their communities.

The Centre is currently piloting a project, with funding assistance from the Law & Justice Foundation of NSW, with a number of RRR CLCs to try to encourage pro bono support from city based firms to those CLCs<sup>39</sup> (the RRR project). The project is ongoing, and due to report in February 2005. Preliminary evaluation of the pilot partnerships is largely positive: there is evidence that these pilot partnerships have resulted in successful pro bono referrals as well as innovative forms of assistance to the CLCs involved and that the partnerships will extend beyond the pilot period. Firms involved in these partnerships have indicated that these partnerships provide an extremely positive avenue for them to effectively direct their resources, and that the sense of working more closely with a CLC than they ordinarily would, has been beneficial to all involved. However, it must be noted that despite the assistance that firms (and the Centre) can provide to facilitate these partnerships, the capacity for a CLC to get the best from any partnership arrangement is contingent on the time and human resources it can afford to divert to it at any given time.<sup>40</sup>

The Centre also notes the Co-operative Legal Service Delivery Model (CLSDM) currently being piloted in the Northern Rivers and Far West NSW districts of NSW by the Legal Aid Commission of NSW which involves, amongst others, pro bono law firms and RRR CLCs. These pilots are yet to be evaluated, but the Centre notes some of the submissions to the Review refer to the resource and other implications of the CLSDM on their operations.

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<sup>35</sup> For example, in NSW, the Refugee Advice and Casework Service coordinated a training program with PILCH (NSW) for lawyers to provide assistance to temporary protection visa holders

<sup>36</sup> The Homeless Persons' Legal Clinics in Melbourne, Brisbane and Sydney provide training, in collaboration with workers from CLCs and legal aid, to participating pro bono lawyers on issues such as social security, mental health legal issues, housing and tenancy, victims of crime, fines and infringement notices.

<sup>37</sup> For example, Illawarra Community Legal Centre has provided training for private lawyers in financial statements for child support matters, and private lawyers in collaboration with Womens' Legal Resource Centre have provided training for pro bono lawyers on drafting affidavits in some family law matters.

<sup>38</sup> It is also not appropriate to assume that pro bono providers should pick up what are core areas of legal aid.

<sup>39</sup> The pilot partnerships involve North & North-West Community Legal Service and Ebsworth & Ebsowrth Lawyers, Shoalcoast Community Legal Centre and Baker & McKenzie and Albury-Wodonga Community Legal Service and Coudert Brothers.

<sup>40</sup> The Centre here notes N&NWCLS' submission to the Review.

## **Secondments with CLCs**

It is widely accepted that secondments of lawyers from private law firms to CLCs are one of the most successful ways of providing pro bono assistance.<sup>41</sup> Secondments promote a close relationship between firms and CLCs and have the potential to lead to other forms of pro bono assistance. For example, former firm secondees can assist the CLC by providing mentoring assistance to the CLC (doing casework reviews, advising on litigation strategies and the like) and can lead to better pro bono referrals between the CLC and the firm. Secondments may also lead to other forms of 'multi-tiered' assistance (referred to above) including involvement in the CLCs management committee, or providing administrative, research and library assistance.

Again, however, secondments are not cost-neutral for a CLC, and a poorly managed secondment may be a potential burden for a CLC. Secondments have administrative and other cost implications for a CLC; and resource, training and supervision issues must be considered so that the CLC is not put to any added expense or risk by virtue of a secondment.<sup>42</sup> Any expansion of secondment programs may involve extra work for the CLC, and consideration needs to be given to the additional staff, resources, capital equipment and training needs such an expansion may involve.

## **Specialist Services**

The Centre makes brief reference to the specialist services whereby firms individually, or in partnership with other firms, create or contribute a specialist legal service. Under one model of providing pro bono assistance to a community organization, a firm may contribute funds, resources and/or staff to establish and/or maintain a community-based service. Examples of these are the Shopfront Legal Service in Sydney, Youth Legal Service in Central Melbourne and First Stop Legal and Referral Service for Young People in the ACT.<sup>43</sup>

Another approach is where a number of firms work together to establish a new service. To date, such efforts have been mostly coordinated by the various Public Law Interest Clearing Houses who have each established Homeless Persons' Legal Clinics or Services in Melbourne, Brisbane and Sydney. The clinics rely on a roster of private sector lawyers who provide advice and assistance at various city clinics hosted in community premises, and would not be possible without the assistance of CLC (and legal aid professionals) who have provided their expertise to the private sector lawyers by way of policy development and training.

## **Conclusion**

Sometimes implicit in discourse (or reviews) about effective or efficient use of resources is the imperative to avoid overlap, blurring or duplication of services, or the need to justify the cost-effectiveness of those services.<sup>44</sup> Pro bono providers, as well as other providers, are generally in the business of assisting disadvantaged people in the community to better access justice. Duplication should not, of itself, be viewed as something which should be avoided: legal service consumers are entitled to choose (where choice is available) a service that best suits their (geographic, linguistic, cultural, financial, accessibility etc) needs. Coordinating and planning services should not necessarily entail avoiding duplication of services.<sup>45</sup>

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<sup>41</sup> From the Centre's consultations and workshops with firms and CLCs (in May 2004, as part of the Centre's RRR project, and in September 2004, at the NACLCL annual conference) secondments have been clearly raised as one of the most desirable ways in which pro bono resources can be provided to CLCs.

<sup>42</sup> see L Curran, 'Demands, demands and competing demands: Life in a legal clinic', (2002) 76(8) *Law Institute Journal* 81 at 84.

<sup>43</sup> Further details about these services can be found in the Centre's *Pro Bono Manual*, available at <http://www.nationalprobono.org.au>.

<sup>44</sup> NACLCL, *Will the real CLC please stand up?: Where to for CLCs in the 21<sup>st</sup> century* (August 2004).

<sup>45</sup> Related to this is the suggestion of a 'turf war' going on in the legal service delivery landscape: with legal aid, CLCs, private pro bono providers and others competing to provide services. While there is obviously some competition for

It is clear that pro bono providers can play a role in delivering legal services to disadvantaged communities. In considering an integrated framework for planning and delivering legal services, pro bono providers are but one of the providers, but one that works best when working together with other legal service providers, including CLCs. Certainly, there is scope for more and better coordinating and planning pro bono service provision within the matrix of legal service providers, and the Centre aims to continue its consultations and collaborations with government, the private sector, legal aid bodies and the community sector to this end.

Clearly, there is a substantial amount of support for CLCs from the pro bono providers. To enable CLCs to coordinate and better avail themselves of pro bono support, which includes, but is not limited to, enhancing the use of volunteers, CLCs should be provided with additional funding.

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funding, it is worth questioning whether these providers are in fact competing to provide the same services, for the same communities, in the same areas of law, in the same way(s). A review whose purpose is to "*contribute to the development of strategies for consolidating and strengthening the CLSP and providing an integrated framework for planning and delivery legal services to disadvantaged members of the community*" may feel compelled to consider, and weight, what may appear to be competing services. The better question may be to ask how these services can work together considering each providers' limited resources, their particular areas of expertise, the particular communities and localities they serve and the identification of these communities' needs, and (culturally, linguistically etc) appropriate ways of meeting those needs.