

# NATIONAL PRO BONO RESOURCE CENTRE

## Pro Bono News 3/2003

Welcome to the third edition of the eNewsletter of the National Pro Bono Resource Centre. The National Pro Bono Resource Centre is affiliated with the Faculty of Law at the University of New South Wales and funded by the Commonwealth Attorney-General's Department.

In this edition:

- 1 Second national pro bono conference
- 2 Centre news and activities
- 3 ABS pro bono statistics
- 4 Homeless persons legal clinics
- 5 Senate Inquiry into legal aid and access to justice
- 6 Subscribe/unsubscribe
- 7 Centre contact details

### 1 Second national pro bono conference

***Transforming Access to Justice***  
**Sydney, 20-21 October 2003**

#### Update

The program and arrangements for this two-day conference and dinner have been finalised. Topics reflect the changed pro bono landscape and focus on finding solutions to the practical problems faced by pro bono service providers and community organisations in their work with disadvantaged groups in the community.

*Conference organisers have stressed the importance of booking early – we are competing for accommodation with the Rugby World Cup attendees. You can download the registration brochure attached to this eNewsletter or from our website or contact us at [info@nationalprobono.org.au](mailto:info@nationalprobono.org.au) or by phone: 02 9385 7381.*

#### Highlights

- Plenary sessions: cover recent developments in Australia and abroad with local and overseas speakers presenting innovative developments in legal service delivery and a variety of pro bono service models to match the legal needs of different disadvantaged groups within the community.
- Workshops: areas covered include the particular needs and appropriate pro bono service models to assist those in rural, remote and regional communities; the value of partnerships between community organisations and law firms, the bar and other legal service providers; dealing with the skill deficiencies of willing pro bono service providers in areas of client need.

- Interactive talkback session: Jenny Brockie, of the SBS Insight program, will lead a panel of experts through key issues affecting pro bono legal services in Australia. These issues include the relationship between government funded legal aid and pro bono and whether pro bono legal services should be available in areas of law that are core legal aid business.
- Conference dinner: at L'Aqua on the Roof Terrace at Cockle Bay Wharf, Darling Harbour. Three course dinner and drinks, good company and speaker Justice Virginia Bell of the Supreme Court of NSW.

### **Subsidised places**

Please contact NPBRC for details of a limited number of subsidised places available to conference delegates who cannot afford the full cost of travel, accommodation and registration.

*The Conference registration brochure is attached as a pdf document to this eNewsletter and is available on our website [www.nationalprobono.org.au](http://www.nationalprobono.org.au)*

## **2 Centre news**

### **(i) Pro bono conflicts and government**

The Centre previously wrote to the Attorney-General seeking the government's adoption of a Protocol for Commonwealth Agencies (see [ProBonoNews 2003:1&2](#) and [www.nationalprobono.org.au/publications/index.html](http://www.nationalprobono.org.au/publications/index.html)). The Attorney, in his response, has agreed that there is a need to address the perception of private sector lawyers that providing pro bono legal assistance in matters against the Commonwealth may affect their ability to undertake legal work for the Commonwealth. He affirmed the principle that legal service providers should (subject to conflict of interest rules) be given the same level of consideration in relation to the provision of tender bids for legal services, whether or not they have acted pro bono for clients against the Commonwealth. The Attorney-General's Department is currently considering how best to address this issue and will have regard to the Protocol submitted by the Centre.

### **(ii) Federal Court Rules - disclosure by practitioners**

The Centre provided comments to the Federal Court on a proposal that the Court's Rules be amended to ensure that the Court knows the identity of any legal practitioner who prepares a document intended to be used in connection with a proceeding in the Court (see [P r o B o n o N e w s 2 0 0 3 : 1 & 2](#) and [www.nationalprobono.org.au/publications/index.html](http://www.nationalprobono.org.au/publications/index.html)). The Court has decided not to proceed with the proposed rule on the basis that it might not be the most appropriate or effective mechanism for dealing with the problem and that the preferable approach is for a Judge hearing a particular case, where appropriate, to direct a party to disclose the involvement of any legal practitioner.

### **(iii) Publications**

#### ***Multi-tiered relationships***

The Centre's report on multi-tiered relationships between 13 community organisations and various law firms has been published on the NPBRC website (see

[www.nationalprobono.org.au/publications/index.html](http://www.nationalprobono.org.au/publications/index.html)). The report provides examples of ways in which firms are providing both legal and non-legal pro bono assistance, benefiting the firms, the community organisations and their clients.

### ***Unbundling legal services***

NPBRC has contributed one of a series of articles in the *NSW Law Society Journal* (Vol 41 No 6, July 2003) addressing the issue of ‘unbundling’ legal services. The Centre believes that ‘discrete task assistance’, as it is also called, is an essential tool available to pro bono and publicly funded lawyers to extend access to justice. The article *Pro bono opportunity in discrete task assistance* is available on the NPBRC website [www.nationalprobono.org.au/publications/index.html](http://www.nationalprobono.org.au/publications/index.html).

### ***Australian Pro Bono Manual***

The Centre’s major publication for 2003 will be the *Australian Pro Bono Manual: A practice guide and resource kit for law firms*. The Manual, which is being published in collaboration with the Victoria Law Foundation, covers general matters such as models of pro bono practice, risk management and taxation issues as well as an extensive section on planning and developing a pro bono program within a firm. Casework procedures and precedents (sample policies and procedure, letters of engagement, secondment agreements etc) are provided along with details of law firm pro bono contacts and other relevant information and resources. The Manual is scheduled for publication in October 2003.

### ***Mapping pro bono***

The Centre is currently working on a report with the working title ‘*Mapping Pro Bono*’. The project is a response to an identified need for a greater understanding of current pro bono practice and the ways in which pro bono can be effectively delivered. The report charts models of pro bono delivery throughout Australia such as partnerships and outreach programs as well as in-house, referral, secondment and volunteering schemes. The report will also contain quantitative information on the scope of pro bono work being done in Australia and include examples of new pro bono initiatives. This information will form the basis of discussion at the 2<sup>nd</sup> National Pro Bono Conference and a final report is expected by the end of the year.

### ***Guide to Volunteering at CLCs***

The Centre is preparing a Guide to Volunteering at Community Legal Centres for lawyers and law students. The Guide will provide information about the range of CLCs and their work, how to go about finding and choosing a CLC that suits the volunteer's interests and skills, and how to acquire information and skills that will be of use. The Guide will also list CLCs that offer volunteering opportunities and provide contact and other information about each CLC. The National Association of CLCs and Coudert Brothers are providing assistance with this project.

### ***(iv) Centre consultations in Perth and Adelaide***

Centre Director Gordon Renouf together with locally based NPBRC Board and Advisory Council members met with a wide range of interested organisations during recent visits to Perth and Adelaide.

### **Perth**

In Perth Gordon's visit was a catalyst for the first meeting of interested partners from the Perth offices of six national law firms. The meeting was also attended by the National Pro Bono Directors of Freehills (Annette Bain) and Clayton Utz (David Hillard). The meeting identified a need to continue to share information between firms and between firms and other organisations, including community legal centres and the WA Law Society's Law Access scheme. A subsequent meeting for that purpose has now been held. Centre Board member Michael Cole, of Law Access, will shortly convene a third meeting of this group. One of the objectives is to promote pro bono in WA by developing more effective relationships and referral systems. For more information contact Michael on 08 9322 7877.

### **Adelaide**

In Adelaide Gordon attended meetings with community legal centres, the Legal Services Commission, the Law Society, the Bar Association, the Council of Social Service and four of the large Adelaide firms. It is apparent that the legal profession in SA makes a very impressive pro bono contribution, for example the work done through the Adelaide Bar in relation to refugee matters coordinated by the Refugee Advocacy Service of SA and the very effective contingency legal aid scheme. Nevertheless there is much that can be done to promote pro bono in South Australia, whether through encouraging volunteering at community legal centres, through coordinating the efforts of major firms to take on more referrals in relation to matters affecting disadvantaged people, through building relationships between legal aid organisations and major firms, or otherwise.

Centre Advisory Council member John Harley, a former Law Society President, and Board member Aleecia Murray have convened a working group, which, with the support of the Centre, will examine ways to better coordinate pro bono in South Australia. For more information contact Aleecia on 08 8204 0439.

**A full list of the Centre's current activities and projects in development is set out on our web site at [www.nationalprobono.org.au/activities/index.html](http://www.nationalprobono.org.au/activities/index.html)**

## **3 Pro bono statistics**

The Australian Bureau of Statistics (ABS) has released its 2001-02 Legal Services Survey, including a profile of pro bono work in the industry. With the new and stricter ABS definition of pro bono now excluding legal aid cases, free first consultations, cases involving contingency arrangements or incentive discounts for regular clients, the overall hours for pro bono work for the year were a healthy 2 304 500, a slight decrease on the number of hours recorded in the 1998-99 survey (see [www.abs.gov.au](http://www.abs.gov.au)).

One pattern to emerge is the apparent inverse relationship between the size of the legal practice and the average amount of pro bono reported to the ABS by individual practitioners. Sole practitioners reported approximately 99 pro bono hours each for the 2001-02 year while the pro bono hours for solicitors working in practices with ten or more principals averaged 20 hours pro bono for the year. Practitioners situated outside of capital cities were reported as taking on a significantly higher pro bono load than their metropolitan counterparts. NPBRC will further consider the information about levels of pro bono in our *Mapping pro bono* project, referred to above.

A recently released report by the Law Society UK has made findings similar to those reported by the ABS. Based on the results of a survey of solicitors across England and Wales, the report found, amongst other things, that solicitors in small to medium-sized firms were more likely to conduct pro bono work than firms with over 26 partners and that solicitors spending over 75% of their fee earning time on legally aided clients were the most likely to conduct pro bono work.

See *The Pro Bono Work of Solicitors, Findings from Omnibus Survey Nine 2002* at [http://www.lawsociety.org.uk/dcs/pdf/sru\\_probono.pdf](http://www.lawsociety.org.uk/dcs/pdf/sru_probono.pdf)

#### **4 Homeless Persons' Legal Clinics**

Following the establishment of the Homeless Persons' Legal Clinics by PILCH Victoria in 2001 and QPILCH in 2002, the Public Interest Advocacy Centre (PIAC) undertook research in NSW and found a distinct lack of legal services specifically designed to assist homeless people. In addition they found that unaddressed legal issues are a critical barrier to escaping homelessness, unemployment and alienation from community.

PIAC and PILCH have now committed resources to undertaking a project aimed at providing homeless people with access to legal services and advocacy. PILCH member firm Minter Ellison is providing a solicitor on secondment to assist PIAC and PILCH develop and implement an appropriate model. Other PILCH members will be contacted with details of opportunities after consultation with agencies and peak bodies providing services to homeless people have been undertaken.

QPILCH Homeless Clinic has recently opened two new clinics in locations where they hope to be more accessible to young people and Indigenous people, the most vulnerable groups of homeless people. These are at the Red Cross Youth Night café (City Hall) on Tuesday nights 7-9pm (Mallesons Stephen Jaques) and 4AAA Kurilpa Kiosk (West End) on Friday from 12.30-1.30pm (McCullough Robertson and McInnes Wilson). An evaluation of the first 6 months of the clinic is being undertaken by Carla Klease who is on extended secondment from Blake Dawson Waldron.

#### **5 Senate Inquiry into Legal Aid and Access to Justice**

The Senate voted on 17 June 2003 for an Inquiry into Legal Aid and Access to Justice to be conducted by the Senate Legal and Constitutional References Committee. Submissions can be lodged electronically to [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au) or by fax (02 6277 5794) by Thursday 21 August. The Committee is due to report by 3 March 2004.

Terms of Reference for the Committee are:

The capacity of current legal aid and access to justice arrangements to meet the community need for legal assistance, including:

- (a) the performance of current arrangements in achieving national equity and uniform access to justice across Australia, including in outer-metropolitan, regional, rural and remote areas;
- (b) the implications of current arrangements in particular types of matters, including criminal law matters, family law matters and civil law matters; and

(c) the impact of current arrangements on the wider community, including community legal services, pro bono legal services, court and tribunal services and levels of self-representation.

Further information about the Inquiry is available at [http://www.aph.gov.au/senate/committee/legcon\\_ctte/legalaidjustice/index.htm](http://www.aph.gov.au/senate/committee/legcon_ctte/legalaidjustice/index.htm)

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[www.nationalprobono.org.au/publications/index.html](http://www.nationalprobono.org.au/publications/index.html)

Please forward this newsletter to anyone else you think may be interested.

## **7 NPBRC contact details**

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