



# AUSTRALIAN PRO BONO CENTRE

**Submission to the Law Council of Australia**

**The Justice Project**

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## ABOUT THE AUSTRALIAN PRO BONO CENTRE

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The **Australian Pro Bono Centre** is an independent centre of expertise that aims to grow the capacity of the Australian legal profession to provide pro bono legal services that are focused on increasing access to justice for socially disadvantaged and/or marginalised persons, and furthering the public interest.

While the **Centre** does not provide legal advice, its policy and research work supports the provision of free legal services and informs government of the role that it can play to encourage the growth of pro bono legal services. The **Centre's** work is guided by a board that include representatives of community legal organisations, pro bono clearing houses, the private legal profession, universities and government.

Established in 2002 as an independent, not-for-profit organisation at the University of New South Wales, it was envisaged that the **Centre** would:

*“Stimulate and encourage the development, expansion and co-ordination of pro bono services, as well as offer practical assistance for pro bono service providers (and potential providers). The **Centre** would play the key roles of facilitating pro bono practice and enabling the collection and exchange of information.”*

The strategies that the Centre employs to grow pro bono capacity include:

### 1. Strengthening and promoting the place of pro bono legal work within the Australian legal profession

**Sustaining Commitment:** Promoting the pro bono ethos and sustaining the Australian legal profession's commitment to undertake pro bono.

**Promoting Growth and Impact:** Leading advocacy for continuing growth in the provision of pro bono and enhancing its impact, especially in areas of unmet legal need, and by a broader range of Australian lawyers.

**Policy Development and Law Reform:** Engaging in policy development, advocacy and law reform with key stakeholders on issues impacting on pro bono services, including the removal of any constraints or barriers to lawyers undertaking pro bono.

**Thought Leadership:** Leading in the development of new ideas and innovative project and partnership models to build pro bono engagement among all Australian lawyers.

**Community Building:** Strengthening relationships between members of the pro bono legal community to promote exchange of knowledge and to stimulate and encourage the development, expansion and coordination of pro bono.

**Enhanced Public Visibility:** Raising the profile of pro bono through a wide range of media and maintaining a strong public presence as a centre of expertise within the legal assistance sector in Australia.

**Events and Forums:** Convening and supporting events and forums to enhance communication about pro bono practice among key stakeholders and to celebrate the Australian legal profession's commitment to pro bono legal service.

**International Relationships:** Developing and building networks with international pro bono programs and providers to strengthen research and guide development of pro bono policies and practice in Australia.

### 2. Developing expertise and providing practical assistance to facilitate pro bono legal service

**Expertise:** Developing and sharing expertise to advance national best practice in the delivery of pro bono.

**Practical Support:** Providing practical assistance, including practical guides and resource kits, to existing and potential pro bono providers and seekers.

**Communication:** Communicating news and insights about issues affecting pro bono practice in Australia.

**Research:** Conducting research to build knowledge of, and expertise about, pro bono.

**Reporting:** Collecting data and reporting on the pro bono work being undertaken nationally.

**Professional Indemnity Insurance:** Providing professional indemnity insurance, underwritten by Lawcover, to support eligible lawyers to undertake pro bono work on projects approved by the Centre.

The **Australian Pro Bono Centre** operates with the financial assistance it receives from the Commonwealth and State and Territories Attorney-General Departments, and support from the Faculty of Law at the University of New South Wales.

## INTRODUCTION

The Australian Pro Bono Centre (**Centre**) thanks the Law Council of Australia (**Law Council**) for its invitation to provide a submission to the Justice Project (**Justice Project**).

In this submission the Centre's responses draw from its national perspective on the features of pro bono legal services in Australia that support and provide access to justice for the persons having been identified by the Law Council in its *Introduction and Consultation Questions - Consultation Paper August 2017* (**Consultation Paper**) as facing significant economic and other disadvantage (**Terms of Reference Groups**).

This submission provides the Centre's insights on the overarching consultation questions listed on page 3 of the Consultation Paper, including case studies for each of the Terms of Reference Groups where pro bono partnerships have helped address unmet legal need.

### Key points in this submission:

- In the pro bono context, strong relationships and partnerships have been critical in delivering effective and responsive legal assistance to individuals in the Terms of Reference Groups.
- The legal profession can better support collaborative service delivery with other sectors by supporting a coordinated approach to referrals to non-legal agencies, encouraging engagement by other sectors, and identifying safe and trusted environments where individuals can seek help.
- The Centre supports a Justice Impact Test or alternative tool, however cautions that appropriate metrics can be difficult to identify. In the pro bono context, the only agreed metric with any degree of consensus has been hours per lawyer.
- The Law Council can best complement existing efforts relating to access to justice by continuing to support the rule of law and by demonstrating strong and robust leadership in support of access to justice. The Law Council's participation in the social dialogue about current issues, in the media and elsewhere, has been influential in making visible the plight of particularly socially disadvantaged groups, which in turn has led to positive social change.

## Q.1 AND 2 (COMBINED): WHAT ELSE WORKS, AND WHY? IN WHAT CIRCUMSTANCES, AND FOR WHOM? WHAT ARE THE CONDITIONS OR ENABLERS WHICH ARE NEEDED TO ENSURE WHAT WORKS CAN WORK WELL?

### 'WHAT WORKS' IN THE CONTEXT OF LEGAL PRO BONO

In the area of pro bono legal assistance in support of the Terms of Reference Groups, the most effective work comes from **strong relationships and partnerships** between the parties involved in a pro bono project or assistance program. This is so, regardless of the size of law firm or legal team

involved and the model used for delivery of pro bono assistance, and irrespective of whether the relationship or partnership is formal or informal.

Strong relationships and partnerships can open the floodgates for assistance for individuals falling within the Terms of Reference Groups. Strong relationships don't develop overnight – they are built over time under certain conditions, and emerge and are more likely to achieve positive outcomes as the parties work together on particular matters or projects.

Pro bono legal assistance is further supported by relationship-building in the context of collaborative service delivery both within the legal sector and with other sectors. In respect of legal sector collaboration, the 2014 Final Report of the Review of the National Partnership Agreement on Legal Assistance Services<sup>1</sup> noted that sector collaboration and cooperation is essential to making the best use of available resources.<sup>2</sup> Greater coordination of services for clients with complex needs and multiple/frequent legal problems through case management has the potential to improve individual outcomes, as well as reduce service costs.<sup>3</sup>

In connection with cross-sector support, pro bono referral organisations (**PBROs**), as well as legal aid commissions and community legal centres (**CLCs**), are increasingly supporting the development of collaborative service delivery programs in which lawyers actively collaborate with legal and non-legal service providers to identify and address the needs of disadvantaged clients. These partnerships are premised on the understanding that individuals often have interrelated legal and non-legal problems, including, for example, housing, health and domestic violence issues.<sup>4</sup>

## **1. CONDITIONS AND ENABLERS SUPPORTING EFFECTIVE RELATIONSHIPS AND PARTNERSHIPS**

### **(a) Trust and Respect**

'Trust' and 'respect' have been identified by the Centre as the necessary ingredients for an effective relationship or partnership. The Centre's feedback from CLC lawyers is that they value relationships with law firms and other pro bono providers that are equal partnerships and are keen to avoid situations where pro bono assistance is provided by firms 'as a gift' to the CLC.<sup>5</sup>

Lawyers in the legal assistance sector develop particular skills from working directly with people who are seriously distressed, traumatised, mentally ill, and experiencing multiple forms of disadvantage. These skills are critical to effective legal assistance but are developed over time. It is important that law firms, when dealing with CLC lawyers and referral schemes, recognise the importance of these skills.

### **(b) Training and Preparation**

It is critical that all lawyers providing pro bono legal assistance in a partnership context receive the formal training required of the particular context in which the assistance is provided. This may include development of legal skills, cultural understanding, as well as skills in triaging assistance

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<sup>1</sup> ACIL Allen Consulting, 'Review of the National Partnership Agreement on Legal Assistance – Final Report', June 2014, prepared for the Australian Government Attorney-General's Department, see: [http://www.acilallen.com.au/cms\\_files/NPA%20Review\\_LAS%20report\\_final.pdf](http://www.acilallen.com.au/cms_files/NPA%20Review_LAS%20report_final.pdf)

<sup>2</sup> As above, p.7

<sup>3</sup> As above, p.22

<sup>4</sup> Please see the Centre's response to Question 3 of this submission for further comment.

<sup>5</sup> <http://www.probonocentre.org.au/whatworks/part-2/chap-3/#3.2>

to ensure that each particular Terms of Reference Group is provided with the most efficient and needed legal assistance.

**(c) Open Communication**

At an early stage in the pro bono relationship, open communication is critical. If relationships are key to the success of pro bono projects then it is vitally important to understand the perspectives of different stakeholders who are the potential partners in a pro bono relationship. The questions that need to be asked of potential partners include:

- What drives them to become involved?
- What resources and skills do they have to contribute?
- What is their culture?
- How do they work?
- What are their limitations and barriers to providing assistance?
- What are they looking for in a pro bono partner?

Determining the motivations and interests of the parties involved can facilitate the development of a project that works for all stakeholders, and can prevent problems arising from one partner asking the other to do something they do not want to, or cannot, do.

Feedback obtained by the Centre is that it is positive when law firms are interested in capacity building for the CLC by, for example, advising the CLC directly or assisting with triaging. Relationships are built between CLCs and firms by undertaking day to day work together.<sup>6</sup>

**2. STRONG RELATIONSHIPS LEAD TO ONGOING SUPPORT**

The personal relationships that can be cultivated between individuals who share a similar commitment to social justice and access to justice can significantly drive the development of pro bono projects, especially when they are individuals in a position to influence their organisation. It is very important that these personal relationships are developed. For example, some not-for-profit organisations (**NFPs**) and CLCs try to develop relationships/alliances with partners at law firms involved in the area of practice relevant to a pro bono matter, in addition to dealing with the firm's pro bono coordinator.

Strong, effective working relationships are not only likely to lead to the decision to provide support in the first place, but are also likely to lead to the provision of ongoing additional support. Throughout the Centre's ongoing consultations with pro bono service providers, many examples of partnerships have emerged that started with a particular matter or project but ended up in a close and sometimes long-term relationship that provided support beyond what was originally asked for or expected.<sup>7</sup>

Relationships that facilitate support on an ongoing basis can be particularly important in areas where it is more difficult to obtain assistance, for example, in rural, regional and remote communities where the geographical distance makes it difficult to form relationships in the first place.

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<sup>6</sup> As above

<sup>7</sup> As above

### 3. ADDITIONAL BENEFITS OF PARTNERSHIPS

In addition to the provision of ongoing support, there are a number of additional benefits that flow from strong pro bono partnerships:

- They **address the unmet legal need** of extremely vulnerable groups facing entrenched disadvantage, including individuals falling within the Terms of Reference Groups.
- If the work is **supervised by a community/NFP** in-house solicitor and covered under its insurance, or by the Centre's National Professional Indemnity Insurance Scheme, it is low-risk for the pro bono service provider and is unlikely to present direct conflicts of interest.
- Lawyers develop their **client interviewing, statement drafting and communication skills** (including listening skills, empathising and maintaining eye contact) in a challenging cross-cultural context, and learn to work with **interpreters**, which assists in the provision of ongoing support.
- Development of a **pro bono relationship** that leads to further assistance and support being provided to a CLC or other organisation.
- Through law firm and in-house corporate team collaboration in a partnership, NFPs get access to a **wider pool of resources skills and expertise** and the lawyers involved get the chance to deepen their working relationships with each other.

### 4. EXAMPLES OF SUCCESSFUL PRO BONO PARTERSHIPS ASSISTING EACH OF THE TERMS OF REFERENCE GROUPS

Successful pro bono partnerships assisting each of the Terms of Reference Groups include:

#### (a) Aboriginal and Torres Strait Islander peoples

- (i) Geraldton Resource Centre (**GRC**) and Clayton Utz have developed a close working relationship over more than five years which has led to an increasing amount and variety of assistance. The firm has assisted the CLC with employment and industrial law issues and runs training in Perth to coincide with State conferences when people from remote regions are there. The firm has also provided a temporary solicitor to act as principal when the GRC principal is on leave for 3–4 weeks. Given GRC's longstanding close relationship with the firm, it has been able to facilitate the provision of pro bono assistance for other community organisations in the Geraldton area.<sup>8</sup>
- (ii) Artists in the Black (**AITB**) is a specialised service for Aboriginal and Torres Strait Islander artists, communities and arts organisations. It is operated by the Arts Law Centre of Australia (**Arts Law**), the national community legal centre for the arts. A number of law firms (including Allens and Clayton Utz), barristers (including Dimitrios Eliades) and in-house corporate legal teams (including Beyond International and Sony) partner or have partnered with Arts Law to provide pro bono legal assistance through this program.<sup>9</sup>

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<sup>8</sup> For further details see: <http://www.probonocentre.org.au/whatworks/part-4/chap-23/> and <http://grc.asn.au/aboriginal-wills-project/>

<sup>9</sup> For further details see: <https://www.aitb.com.au/>

**(b) Those with disabilities**

The Pro Bono Justice Project (**the Project**) is an initiative of the Mental Health Legal Centre Inc. (**MHLC**), which currently operates in Victoria. The Project aims to address the legal needs of unrepresented involuntary patients in the Melbourne metropolitan region who have Community Treatment Order matters before the Mental Health Tribunal. Law firms that take part in the Project commit at least two pro bono lawyers to the Project, with each lawyer representing one client per month/every two months. Some of the participating law firms include Ashurst, Sparke Helmore and Lander & Rogers. The private firm lawyers, and other participating legal practitioners from the Victorian Bar and public service, are trained, supervised and supported by MHLC to provide legal advice and representation to the unrepresented clients.<sup>10</sup>

**(c) The elderly**

- (i) Seniors Law is a free and confidential outreach legal service operated by Justice Connect (Vic). The Seniors Law team has partnered with various law firms to assist older Victorians with legal matters relating to elder abuse and other legal issues associated with ageing. For example, from November 2014 to August 2015, the Seniors Law team delivered the ‘Lawyer in a Bus’ project, which involved pro bono lawyers from Lander & Rogers, Maddocks and Holding Redlich visiting aged care facilities across Melbourne to provide legal assistance to elderly individuals, as well as legal education and training for aged care facility staff. By the end of the project, around 150 residents were assisted and over 120 staff were given training.<sup>11</sup>
- (ii) Senior Rights Victoria, a specialist community legal service, has worked closely with Justice Connect’s Seniors Law service to assist elderly people in Victoria, particularly in relation to legal matters involving elder abuse and other legal issues relating to ageing. In 2015–2016, Seniors Rights Victoria supported Seniors Law in delivering a new Health Justice Partnership (**HJP**) between Justice Connect and St Vincent’s Hospital in Melbourne. Justice Connect currently incorporates a part-time lawyer in the health care team at St Vincent’s Hospital.<sup>12</sup> Senior Rights Victoria has also delivered pro bono Seniors Law Clinics in four allied health service locations in partnership with Justice Connect.<sup>13</sup>
- (iii) Henry Davis York partnered with the Senior Rights Service NSW and Holding Redlich in 2016 to launch a telephone legal advice service for vulnerable elderly people.<sup>14</sup>

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<sup>10</sup> For further details see: [http://www.communitylaw.org.au/mentalhealth/cb\\_pages/PBProjectplan.php](http://www.communitylaw.org.au/mentalhealth/cb_pages/PBProjectplan.php) and [http://www.communitylaw.org.au/mhlc/cb\\_pages/MHRB\\_pro\\_bono.php](http://www.communitylaw.org.au/mhlc/cb_pages/MHRB_pro_bono.php)

<sup>11</sup> For further details see: <https://www.justiceconnect.org.au/our-programs/seniors-law/get-help/lawyer-bus>

<sup>12</sup> For further details see: <https://seniorsrights.org.au/wp-content/uploads/2016/10/SRV-Annual-Report-2016-R5-WEB.pdf>, p. 16

<sup>13</sup> For further details, see: [https://seniorsrights.org.au/wp-content/uploads/2014/03/srv\\_annual\\_report\\_web.pdf](https://seniorsrights.org.au/wp-content/uploads/2014/03/srv_annual_report_web.pdf), p. 8

<sup>14</sup> For further details see: <https://www.hdy.com.au/about-us/responsible-business/pro-bono>

(d) **Economically disadvantaged and impoverished Australians**

Assisting economically disadvantaged and impoverished Australians is a specific focus area or objective for many law firm pro bono programs, and it often underpins various specific pro bono projects. For example, Marrickville Legal Centre has partnered with Spark Helmore, HWL Ebsworth, Minter Ellison and Santone Lawyers to deliver the Employment Law Advice Clinic in Sydney. Pro bono lawyers in the Clinic provide legal advice on employment law issues to those on low incomes, workers with a disability, young workers and recent migrant workers. As at October 2016, the clinic had assisted approximately 1,225 people.<sup>15</sup>

(e) **Homeless Persons**

Homeless Persons' Legal Services exist in most states and territories of Australia and have been largely developed by pro bono clearing houses in each jurisdiction. For example, the Homeless Persons' Legal Service (**HPLS**) in NSW is a key project operated by the Public Interest Advocacy Centre (**PIAC**) and developed by the Public Interest Law Clearing House NSW. It addresses the legal needs of homeless people in NSW through a human rights framework, by providing free legal advice and ongoing representation to people who are homeless or at risk of homelessness.<sup>16</sup>

HPLS currently operates 14 free legal clinics on a roster basis, importantly partnering with welfare agencies in the greater Sydney metropolitan and Hunter regions which provide direct services, such as food and accommodation, to people in housing crisis and which provide the premises and context where advice can be provided. The clinics are coordinated by HPLS and staffed by lawyers from a number of firms and other organisations, including Allens, Burke & Mead, Carroll & O'Dea, Corrs Chambers Westgarth, Gilbert + Tobin, Henry Davis York, Hicksons, HWL Ebsworth, Legal Aid NSW, Macquarie Bank, Maddocks, Minter Ellison, Moray & Agnew, Norton Rose Fulbright and Thomson Geer.<sup>17</sup>

(f) **Children**

Several law firm and in-house corporate legal teams are in partnership with the National Children's and Youth Law Centre (**NCYLC**) to provide pro bono legal advice under its Cyberlaw Volunteer Project. Those partners include Telstra and King & Wood Mallesons (**K&WM**). NCYLC offers online legal information and advice to children and young people through their Lawstuff website and LawMail. In the year 2016-2017 over 1,800 LawMail advices were provided. Telstra and K&WM legal employees participate as cyber-volunteer lawyers who update and maintain the Lawstuff website, and read and respond to LawMails. Participating Telstra lawyers volunteer two hours each month either from their desk or in the office at the nearest K&WM office.<sup>18</sup>

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<sup>15</sup> For further details see: <http://www.sparke.com.au/insights/media-releases/sparke-helmores-workplace-team-a-finalist-in-the-2016-justice-awards/> and <http://www.probonocentre.org.au/apbn/oct-2016/nsw-justice-awards-deliver-pro-bono-partnership-award-small-regional-partnership/>

<sup>16</sup> For further details see: <https://www.piac.asn.au/projects/homelessness/>

<sup>17</sup> For further details see: <http://www.probonocentre.org.au/whatworks/part-4/chap-21/#21.5.1>

<sup>18</sup> For further details see: [http://www.probonocentre.org.au/wp-content/uploads/2017/08/Corporate-Lawyers-Guide-FINAL-PRINT\\_1707172.pdf](http://www.probonocentre.org.au/wp-content/uploads/2017/08/Corporate-Lawyers-Guide-FINAL-PRINT_1707172.pdf), p.22

**(g) Prisoners and detainees**

The 'Safe Way Home' Project was developed by the Prisoners' Legal Service in partnership with DLA Piper and Allens to assist disadvantaged prisoners across Queensland to prepare written parole applications. In Queensland, parole applications can only be made in writing, and with about 50 percent of prisoners not having completed a Grade 10 education and about 30 percent of prisoners being Aboriginal or Torres Strait Islanders, this service aims to provide equal access to the most disadvantaged of applicants to assist them make a safer, more structured and supervised release back into the community.<sup>19</sup>

**(h) Those who are trafficked or exploited**

Anti-Slavery Australia (**ASA**) worked with Clayton Utz over a number of years to pioneer a path to compensation for women in NSW who have been sex-trafficked into Australia and forced to work in sexual servitude. Through their pro bono partnership, Anti-Slavery Australia and Clayton Utz successfully obtained over \$1 million in statutory compensation for victims of sex-trafficking in NSW during the 2012-2013 financial year. Prior to this partnership, no-one had recognised the possibility of statutory compensation being available in NSW for these trafficked women. Queensland and the ACT have used ASA and Clayton Utz's model to obtain statutory compensation for victims of trafficking in their jurisdictions.<sup>20</sup>

**(i) Those who face challenges concerning sexual orientation or gender identity**

Allens has provided assistance to Law Access (Western Australia) in relation to asylum seekers who identified as LGBTI and were claiming refugee status on the grounds of sexuality or gender identity. Allens produced case summaries of Refugee Tribunal and Administrative Appeals Tribunal decisions involving asylum seekers claiming refugee status on the grounds of sexuality or gender identity. This information was used to develop a plain English guide that would help LGBTI asylum seekers understand their claim for refugee status, the information and evidence needed to support their claim and the factors taken into account by a Tribunal when considering a claim on the grounds of sexuality or gender identity.<sup>21</sup>

**(j) Recent arrivals in Australia**

In May 2017 Colin Biggers & Paisley formed a new community partnership with Immigration Advice & Rights Centre Inc. (**IARC**) to launch IARC Plus, a wrap-around civil law advice service for vulnerable migrants. Pro bono lawyers from Colin Biggers & Paisley attend the IARC office every Monday to provide legal advice to migrants on a range of civil law matters, including insurance, debts owed to the Commonwealth, unpaid bills, Centrelink disputes, fines, employment, complaints to the Australian Human Rights Commission and Ombudsman and

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<sup>19</sup> For further details see: <http://plsql.com/get-help/safe-way-home/> and

<http://www.probonocentre.org.au/australian-pro-bono-news/archive/jul-2013/#5>

<sup>20</sup> For further details see: <https://www.claytonutz.com/knowledge/2013/october/pro-bono-partnership-between-cu-and-anti-slavery-australia-recognised-with-2013-law-justice-foundation-award>

<sup>21</sup> For further details see: <https://www.allens.com.au/comm/impact2016.pdf>, p. 24.

victims compensation.<sup>22</sup>

**(k) Asylum seekers**

A number of law firms and in-house corporate legal teams are in partnership with each other and CLCs which support asylum seekers. These CLCs exist in many states and territories of Australia. Pro bono providers have assisted asylum seekers in many matters including litigation in the High Court. Currently, much work is being done lodging applications for protection visas subject to the fast track assessment process. For example, in March 2017, NAB partnered with Henry Davis York for this purpose. In the first collaboration of its kind between RACS, Henry Davis York and an Australian bank, 10 NAB volunteers attend 3-hour clinics each Friday on a rotational basis, to take statements from people seeking asylum. Most of these clients do not speak English and require the assistance of interpreters.<sup>23</sup>

**(l) Those who experience family violence**

In 2015 Colin Biggers & Paisley partnered with Women's Legal Service NSW (**WLSNSW**) to launch the 'Victims of Violence' Project. This collaborative partnership involves only female Colin Biggers & Paisley lawyers (trained by WLSNSW), which is consistent with the casework practice of WLSNSW and helps to ensure that clients are more likely to feel comfortable to disclose details about acts of violence and injury. The project is part of a broader relationship involving Colin Biggers & Paisley giving access to its city rooms for volunteer lawyers to provide a weekly evening telephone advice service, as well as support to WLSNSW through Colin Biggers & Paisley's workplace giving program and taking on other referrals.<sup>24</sup>

**(m) Those residing or working in regional and remote areas of Australia**

(i) Various private law firms in NSW have provided pro bono legal assistance through Legal Aid NSW's Cooperative Legal Service Delivery (CLSD) Program to assist people living in regional, rural and remote areas. For example, in 2014-2015 Ashurst and Gilbert + Tobin were involved in the CLSD wills clinic, providing pro bono legal advice to Aboriginal people residing in Coffs Harbour, Kempsey, Taree, Dubbo, Bourke and Brewarrina on matters relating to wills and estates.<sup>25</sup>

(ii) See also the case study under section 4(a)(i) above.

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<sup>22</sup> For further details see: <https://cbpfoundation.com.au/colin-biggers-paisley-announces-new-community-partnership-immigration-advice-rights-centre/>

<sup>23</sup> For further details see: <https://www.hdy.com.au/About-Us/News/Corporate-support-for-Refugee-Advice-and-Casework> and <http://www.racs.org.au/causes/protection-visa-assistance/>

<sup>24</sup> For further details see: <http://www.probonocentre.org.au/apbn/oct-2016/nsw-justice-awards-deliver-pro-bono-partnership-award-small-regional-partnership/>

<sup>25</sup> For further details see: <http://www.legalaid.nsw.gov.au/publications/annual-report/annual-report-2014-2015/collaborating-with-our-partners/regional-partnerships>

### Q.3 HOW CAN THE LEGAL PROFESSION BETTER SUPPORT 'JOINED UP' AND COLLABORATIVE SERVICE DELIVERY WITH OTHER SECTORS? WHAT CAN IT LEARN FROM OTHER SECTORS IN THIS REGARD?

#### Supporting a Coordinated Approach to Referrals

At a strategic level, the legal sector can better support collaborative service delivery in the planning and delivery of legal services by **actively instigating and supporting a coordinated approach** to providing pro bono legal assistance with both **referrals** to legal assistance providers and to non-legal agencies. This is particularly important in regional areas, where access to justice can be improved by enhancing the use of scarce resources. For example, in regional NSW, under the Cooperative Legal Service Delivery (CLSD)<sup>26</sup> program coordinated by Legal Aid NSW, regional coalitions between CLCs, PBRs, Legal Aid NSW, local courts, law firms (both local and Sydney-based) and community organisations work to improve client outcomes by taking a coordinated approach to providing pro bono legal assistance, referrals to Legal Aid and/or referrals to non-legal agencies. Regional coalition projects include outreach clinics as well as referral programs, community legal education and training.<sup>27</sup>

#### Encouraging Engagement by Other Sectors

The legal sector can better encourage engagement by other sectors in its own service delivery by, for example, ensuring that major legal conferences focus on having key speakers from other sectors, and ensuring that relevant discussion forums include representatives from other sectors to encourage dialogue and a 'joined-up' approach to service delivery.

#### Establishing/Locating Safe and Trusted Environments for Service Delivery

The Centre's observation is that collaborative partnerships result in effective outcomes for disadvantaged persons, including those falling within the Terms of Reference Groups, when legal service providers ensure:

- (a) legal services are accessible at the same, or near the, location where the services of other sectors are provided, particularly when those services are well-known by clients; and
- (b) the locations at which legal and other services are provided are considered by clients to be safe and trusted places.

Legal services can be provided, for example, at the same location as social workers, medical assistance and/or where a place is considered to be a 'community hub'.

#### 1. BENEFITS of 'JOINED UP' AND COLLABORATIVE SERVICE DELIVERY

In the pro bono context, the primary benefits of well-functioning 'joined up' and collaborative service delivery are:

- (a) **Easier referral of clients** - Collaborative partnerships can result in easier referral of clients between services, and easier access to legal and other services may mean greater awareness and better use of them by clients, particularly when travel time and expense are reduced.

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<sup>26</sup> See Legal Aid NSW, 'Cooperative Legal Service Delivery', <http://www.legalaid.nsw.gov.au/what-we-do/community-partnerships/cooperative-legal-services-delivery-clsd-program>

<sup>27</sup> See section 4(m) above for case studies.

- (b) **Filling gaps in unmet legal need** - The collaborative partnership model is by nature responsive to requests for assistance, and this means that it plays an important role in identifying unmet legal need, filling gaps in legal service delivery and providing access to justice for people who have otherwise been unable to obtain legal assistance.
- (c) **Safe and trusted environments** - If collaborative partnerships result in the establishment of safe and trusted environments for clients, the legal aspects of their problems are more likely to be identified.
- (d) **Impact on access to justice beyond the individual case** - Collaborative partnership models can have an impact on access to justice beyond the individual case that is referred. Pro bono providers can develop expertise and experience from having a number of similar cases referred to them from other sectors which allows them to identify trends and, if relevant, the need for law reform. Through collaboration with other service providers pro bono providers can see emerging trends and areas of need from patterns in the individual requests for assistance.

## 2. CHALLENGES/LIMITATIONS OF 'JOINED UP' AND COLLABORATIVE SERVICE DELIVERY

The Centre has identified a number of challenges and limitations to collaborative partnerships, particularly CLC and law firm partnerships, as they relate to the provision of pro bono legal assistance:

- (a) **Availability of resources** - The model may rely on those with unmet needs making requests for assistance as they are referred by a partner and requiring appropriate legal assistance resources being available at that time. There therefore may be a challenge in meeting legal needs. A case requiring immediate assistance might be referred within a partnership model at a time when there are no resources to take it on.
- (b) **Managing the expectations of the referring partner** - Another challenge for pro bono providers in collaborative partnerships is managing feedback to the referring partner, who often wants to know the outcome of matters they have referred to a pro bono provider so they can learn from the experience, and also because they want to promote the service with examples of referrals with positive outcomes. However, it is up to the legal assistance provider to decide whether they want to share this information with the referring partner after considering privilege and confidentiality issues.
- (c) **Awareness of value** - Cross-sector collaborative partners may not appreciate the value of legal services and as such may be reluctant to invest in collaborative service delivery models.

## 3. FEATURES OF SUCCESSFUL COLLABORATIVE PARTNERSHIPS INVOLVING PRO BONO

In the pro bono context, collaborative partnerships work effectively when there is:

- (a) **Cross-promotion of available services** - The collaborative partnership model may rely on those with unmet legal needs to be referred for assistance. It is therefore vital that the **availability of pro bono assistance is promoted effectively** to those within the partnership and, ideally, the disadvantaged persons who might need it. Ideally, each partner within the collaboration would cross-promote each other's available services to increase awareness of the existence of such assistance.
- (b) **Clear communication** - A well-organised collaborative partnership should provide easy access for people seeking legal assistance, a timely and professional response to requests received, and should follow detailed and efficient procedures for case intake and assessment (e.g.

recording of contact details, case notes, copies of relevant documents, conflict/means/merit check etc). It may work best for the referring partner to make initial contact with the pro bono provider on behalf of a client, to clearly articulate the reason for the referral.

- (c) **Dedicated contact point** - Strong relationships, coordination and understanding between the partner(s) and the pro bono provider often relies on having a dedicated contact point within partners of the collaboration. Where possible, it may be better to have more than one contact in each partner organisation to avoid having the relationship between the partners relying solely on individual people.
- (d) **Continuing the involvement of other partners** – When necessary, the involvement of a referring partner seeking to resolve a client’s problem should be continued to ensure that the client is receiving comprehensive assistance.
- (e) **Diverse skills on boards** – It is particularly helpful if the boards of organisations involved in collaborative service delivery are comprised of individuals with diverse skill-sets, experiences and perspectives. This will help to ensure the overall strategic direction of a collaborative partnership is nurtured and sustained.

#### **4. CASE STUDY: HEALTH JUSTICE PARTNERSHIP IN A RURAL CONTEXT (BENDIGO HEALTH OUTREACH)**

In 2006 the Loddon Campaspe Community Legal Centre (**LCCLC**) established the Palliative Care Legal Program at Bendigo Health (Bendigo campuses) in partnership with social workers and local solicitors. It continues today. The program provides legal advice and assistance to disadvantaged and marginalised patients who would not be able to access a private solicitor, and patients receiving palliative care at the hospice or in their homes.

The Older Persons Legal Program aims to provide services that are face-to-face, are based in the local community, adopt a multi-disciplinary approach, are in the best interests of the palliative care or older person and take a least restrictive approach. Legal information and advice services are generally provided free of charge, although eligibility criteria are applied where people require assistance in the form of ongoing casework activities. Numerous solicitors in the local area have participated in the Program.

Given that older people who are admitted as patients often present with a convergence of health and legal issues that require a collaborative approach, this multidisciplinary approach provides opportunities for lawyers and social workers to work together to build on knowledge and expertise. This approach also potentially has the dual benefits of resolving a patient’s legal issues, while contributing to important health outcomes. Free legal assistance is provided in a range of legal matters, including: enduring powers of attorney, wills, age discrimination, family care arrangements and accommodation. The LCCLC is particularly interested in following up any issues of elder abuse.

One issue for debate is the extent to which this project is really targeting areas of greatest need. ‘Some solicitors criticised the program for providing a free service where it was reasonable to request remuneration. They declined to support such an initiative in their region. Further, they felt that the services could be provided on an ad hoc basis and that patients that could afford legal services would receive them in the ordinary manner.’<sup>28</sup>

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<sup>28</sup> Peter Noble, ‘On Capacity: Promoting structured pro bono by regional lawyers to provide legal education

In his former role as Coordinator at Loddon Campaspe Community Legal Centre, Peter Noble explained that many of the clients might have assets but have no cash flow. 'A simple will or POA [Power of Attorney] can be done quickly. The lawyers involved in the service are comfortable with the idea of providing the service to people who are not necessarily without the means to pay for it. Means is only one of three considerations for providing the service: 1) Capacity to pay, 2) Urgency and 3) Vulnerability. If the matter is more complex, and the person has capacity to pay, then the service will end the retainer and refer the person.'<sup>29</sup>

The process from referral to resolution follows a simple, seven-step approach that enables clear communication and accountability between the parties as follows:

1. The hospital/palliative care social worker identifies the patient requiring legal assistance.
2. The social worker records the patient's details on a referral form with the patient's signature, then faxes the referral form to LCCLC.
3. LCCLC assesses whether the referral falls within the casework guidelines and is urgent. LCCLC will also obtain further information if necessary.
4. LCCLC emails general information about the patient and the request for assistance to the list of pro bono lawyers engaged with the program.
5. When a pro bono lawyer indicates they are able to assist the patient, LCCLC emails the referral form (with patient details) to the pro bono lawyer who confirms receipt. At this stage the client formally becomes a client of the pro bono lawyer.
6. The pro bono lawyer contacts the social worker to arrange a suitable day and time to see the patient.
7. The pro bono lawyer undertakes the legal work and provides advice on additional matters if these fall within their expertise. The LCCLC has no further involvement in the matter unless the pro bono lawyer refers the matter back to the LCCLC.

There are various benefits and challenges/limitations of this type of partnership as follows:

### **Benefits of the Partnership**

- (a) The Program creates **targeted, structured and supported pro bono opportunities** for smaller firms in regional areas, many of whom have considerable skills to offer in the health setting but would not normally do much pro bono (and might not be so inclined to do pro bono work for a less sympathetic client group). The Bendigo Health Outreach service currently has 13 lawyers volunteering.

### **Challenges/Limitations**

- a) **Means testing** of potential clients.
- b) Convincing local lawyers that they have, or can quickly develop, **the required expertise**.

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and casework within the health context', paper presented at the National Rural/Regional Law and Justice Conference, 19-21 November 2010, p 15, <http://lcclc.org.au/wp-content/uploads/2012/02/On-Capacity-Conference-Paper-by-Peter-Noble-Loddon-Campaspe-Community-Legal-Centre.pdf>.

<sup>29</sup> Note that Albury-Wodonga CLC has used a different model. The CLC triages clients, assessing them for a \$50 will voucher that will be accepted by a number of firms which have signed up for the service.

- c) Overcoming **perceived conflicts**.

#### Features that Make It Effective

- a) **Ongoing training for lawyers** on how to deal with highly vulnerable and ill clients.
- b) **Ongoing training with partner agencies** regarding what health workers can and cannot do, what they can and cannot witness. Health workers are critical to the success of the service as they make patients aware of it. The service is providing training to all social workers in the aged care division of the Department of Health.
- c) **Availability of resources** to respond to referrals.
- d) The client's **legal file and all relevant documents are maintained by the pro bono lawyer**. The advice and casework is covered by the pro bono lawyer's professional indemnity insurance and not the professional indemnity insurance of LCCLC.

#### Q.4 WHAT SHOULD BE THE HIGHEST PRIORITIES FOR FUTURE ACTION WHICH WOULD DELIVER THE GREATEST BENEFITS GIVEN LIMITED RESOURCES

It is suggested that, as described above, many benefits for disadvantaged groups stem from collaborative relationships. In the pro bono context, resourcing projects that elicit the advice, insights and experiences of professionals from other disciplines and supporting partnerships and a holistic approach to assistance has systemic benefit and benefits disadvantaged and/or marginalised persons individually, including those in the Terms of Reference Groups.

#### Q.5 WHAT MEASURABLE INDICATORS WOULD SIGNIFY THAT PROGRESS WAS BEING MADE FOR EACH GROUP, HAVING REGARD TO THE HIGHEST PRIORTIES FOR FUTURE ACTION? COULD THESE BE BASED ON EXISTING DATA SOURCES, OR WOULD NEW ONES BE REQUIRED? WOULD A JUSTICE INDEX TOOL BE A USEFUL ADDITION IN THIS REGARD?

In the legal pro bono context the most effective indicator of progress and the only agreed metric in evaluating a pro bono program has been measurement of hours of pro bono work per lawyer. This underpins the National Pro Bono Aspirational Target (**Target**), which is a voluntary target that Australian law firms, incorporated legal practices, individual solicitors (including corporate and government lawyers) and barristers are encouraged to adopt by becoming signatories and by signing a Statement of Principles.<sup>30</sup>

Signatories to the Target agree to use their best efforts to provide at least 35 hours of pro bono legal services per lawyer per year, adhere to the Statement of Principles and report annually to the Centre on whether they have met the Target in the previous year.

The Centre would support the development of a Justice Index Tool to better assess the impact of legal pro bono work as it assists the Terms of Reference Groups, but notes that it has been difficult for the

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<sup>30</sup> For further details see: <http://www.probonocentre.org.au/provide-pro-bono/aspirational-target/>

Centre and others directly involved in pro bono legal assistance delivery to develop other, more meaningful, metrics.

**Q.6 WOULD A JUSTICE IMPACT TEST, OR ALTERNATIVE TOOLS WHICH ARE DEVELOPED ACROSS THE LEGAL PROFESSION, HELP TO ENSURE THAT THE IMPACTS OF NEW POLICIES AND LAWS UPON THE JUSTICE SECTOR ARE APPROPRIATELY PLANNED FOR AND RESOURCED DURING THE POLICY PROCESS?**

The Centre supports the development of a Justice Impact Test or alternative tools across the legal profession to ensure that the impact of new policies and laws upon the sector is appropriately planned for and capable of being evaluated. It is suggested that the benefits and challenges/limitations of similar impact tests in other disciplines, for example, those relating to environmental, privacy and financial impact, need to be rigorously assessed first to better inform the development of any such test in the legal sector.

In the pro bono context, various considerations are taken into account when pro bono providers evaluate the impact of their work. Similar considerations could be helpful in the development of a Justice Impact Test or similar tool.

**1. DEMONSTRATING VALUE THROUGH SYSTEMATIC COLLECTION OF DATA**

In the pro bono context, the data collected, analysed and presented during an impact evaluation process can provide a sophisticated and compelling way of demonstrating the value of a pro bono program, project or matter to a provider's internal and external stakeholders. In this way an evaluation can:

- (a) **support the business case** for pro bono to help build support for the pro bono program;
- (b) align the program with the **provider's strategic direction**, supporting the provider's current client and/or industry focus. For example, showing that a program helps to fulfil a law firm's pro bono obligations or that the firm's pro bono contributions and commitment to the community help to meet corporate client expectations;
- (c) support the **provider's operational strategy**. For example, by showing that pro bono opportunities provided to staff support the provider's professional development and staff retention strategies, or by demonstrating the firm's pro bono culture for recruitment and training purposes;
- (d) promote the **provider's values** by demonstrating its pro bono culture. For example, providing stories and statistics that can be used in the firm's public relations, marketing, and communication activities;
- (e) **promote the pro bono practice to the pro bono community** including referral organisations; and
- (f) enable the provider to **participate in the pro bono community** by responding accurately to surveys on pro bono such as the National Law Firm Pro Bono Survey or the periodic Australian Bureau of Statistics survey of legal practices.

## 2. INFORMING FUTURE STRATEGIES

Knowing whether pro bono efforts have achieved their goals, and if not, why not, informs future efforts to make the best use of the limited resources available to be invested in pro bono programs, projects and individual matters. The lessons learned from an evaluation inform decision-makers about how to build on or improve the provider's pro bono program in the future.

The real value of evaluation is not limited to findings and recommendations in an evaluation report. The evaluation process is an approach to thinking and learning about what the pro bono legal work of the provider aims to achieve and to planning how to achieve it. The process of evaluation as a strategic planning tool can therefore be just as important as the results.

### Q.7 WHAT MECHANISMS WOULD SUPPORT THE DEVELOPMENT OF POLICIES AND LAWS IN THIS AREA WHICH ARE MORE EVIDENCE-BASED?

The Centre suggests that organisations highly specialised in social impact testing need to be consulted to support evidence-based policies.

From its observations of, and recommendations for, evaluative methods in the area of legal pro bono, the Centre suggests that systematic recording and collection of data is necessary to ensure that the collection of evidence is credible and can be legitimately used as the basis of decision-making.

The following provides a summary of the decisions that should be made in developing and settling on an appropriate evaluative tool. These considerations are recommended by the Centre to pro bono providers for evaluation in support of the development of policies and programs.<sup>31</sup> While they are provided in the pro bono context, there are a number of recommendations that can equally be applied to wider areas of the social justice sector:

#### SUPPORTING EVIDENCED-BASED EVALUATION

##### (a) Planning Stage

1. Decide upon the **target audience/s** of the evaluation.
2. Decide upon the **scope** of the evaluation (for example, whether it covers a single project or an entire program).
3. Decide **what** to evaluate, having regard to what the target audience wants to know. An evaluation process may have both an internal and external focus.
4. Be clear on the **purpose** of the evaluation.
5. Determine the **period** to evaluate (for example, whether it covers the entire duration of a program or project, or a limited time period).

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<sup>31</sup> For further details about evaluation methods in the context of legal pro bono see: <http://www.probonocentre.org.au/aus-pro-bono-manual/part-1/chap-1-13/>

6. Determine what **data** is required to obtain the answers to the questions asked in the evaluation. The required data may be **quantitative** (predominately statistical) or **qualitative** (predominantly discursive) in nature, or may include both.
7. Develop **questions** which will facilitate collection of the data required to evaluate the issue being analysed. The questions may be quantitative or qualitative in nature, or use a mixed method.
8. Determine **how** the required data will be collected. If necessary, set up additional processes or systems to collect data throughout the program. Alternatively, data may need to be obtained using discrete **evaluation tools and methods** that can be used during and/or after the program being evaluated, such as surveys, questionnaires, interviews or focus groups.

#### (b) **The Scope of the Evaluation**

The scope of an evaluation. Considerations may include:

- measuring costs and benefits; and
- people/organisations involved.

#### (c) **Deciding What to Evaluate**

Decisions about what to evaluate will be informed by the perspectives of the target audience and the purpose of the evaluation. Externally focused evaluations examine what the social impact of the pro bono contribution has been. Considering social impact may involve asking the following questions:

- What difference did the project make to individual pro bono clients' lives?
- What impact did the pro bono legal work have on the capacity of partner community organisations to deliver services?
- What was the project's broader social impact?

The answers to these types of questions can be qualitative and/or quantitative.

#### (d) **Strategies for Evaluating Impact**

Measuring the broad social impact of a pro bono program, which is a longer-term outcome, and one affected by other external factors, is more difficult than an internally focused process or management evaluation.

The Centre recommends:

##### **1. Using anecdotal evidence**

The demand for evidence-based decision-making often means that quantitative models of evaluation are prioritised. However, anecdotal evidence also has value as an indicator of likely social impact. Moreover, anecdotal evidence can be used as a powerful story-telling tool.

Anecdotal evidence may also become quantitative where it is collected systematically. In the same way that the credibility of quantitative data may be questioned if it is collected from a very small

sample, anecdotal evidence collected systematically from a statistically valid sample may be considered to be highly credible.

Anecdotal evidence certainly may be the most realistic evidence for a pro bono practice to collect where it has insufficient resources to collect data on the scale that would be required to measure ultimate outcomes.

In the absence of quantitative data, the anecdotal evidence collected can be coupled with external research sources (for example, the reports of the Law and Justice Foundation of New South Wales) to provide support for a prediction about the likely social impact. For example, a firm wanting to measure the social impact of its pro bono legal work with people at risk of homelessness, could support their assumptions using a research study showing that the early provision of legal assistance to avoid fine-related debt for such clients reduces their chances of actually becoming homeless.

## **2. Open communication with other stakeholders**

In the pro bono context, if a firm has identified certain social impact goals it wishes to pursue, it may be able to ‘piggy-back’ off the evaluation processes of a partner organisation that has a strong track record of strategically planning, delivering and evaluating the achievement of these goals.

## **3. Collecting data**

Systematic collection of data is necessary to ensure that any evaluation process is credible and can be legitimately used as the basis of decision-making. Determining what data is required for the evaluation depends on the questions that the evaluation is seeking to answer. Once this is known, an appropriate data collection system can be chosen or designed.

In the pro bono context, many evaluation questions can be answered by a law firm using data collected during the program using a data collection system. For example:

- Are intake procedures working well?
- What kinds of cases are being refused? Can and should the program be adjusted to cater for those cases?
- Do additional referral sources need to be identified?
- Which organisations are not making referrals?
- Are the types of clients being assisted consistent with the targets set for the program (if any)?
- Are there some sections of the firm (such as practice groups, demographic groups or levels of seniority) that are not participating in the program? Why not?

Some firms with established pro bono practices set up customised databases for pro bono matters to capture a range of additional information, including client profiles (for example gender, cultural and linguistic background, income, and geographic location), area of law and referral source. If the database and/or the billing system records the type of work being performed, the firm can broadly see how pro bono time is being allocated (for example, the split between time on casework and advice, law reform, pro bono administration, CLE, training). The database may even be detailed enough to outline the area of law or practice that the work relates to (for example, governance, employment, tax). The firm’s billing system should also capture the seniority of the person doing the work.

One of the advantages of setting up pro bono databases is that they can be used as both measurement and supervisory tools. This kind of database may be also useful for recording information such as court or limitation dates.

Information in the database can be regularly updated by staff involved in the matter. Relevant segments of information can then be extracted for different purposes such as financial reporting, current status reports and for measuring demographic information about clients or to ascertain where referrals are, or are not, coming from. Pro bono coordinators, committees or others can periodically access the information to compile reports, supervise work and evaluate the program.

Partner organisations may also collect their own data, either through the Community Legal Service Information System or otherwise. If partner organisations are willing and able to provide firms with the information they collect it may also be helpful in evaluating the firm's program. Information collected by partner organisations can be a helpful tool for informing how to effectively structure a pro bono partnership and/or better understand unmet legal need.

#### *COLLECTING QUALITATIVE INFORMATION*

Qualitative information may be collected during or at the conclusion of the period being evaluated, for example, by:

- recording comments in a register when a paying client makes favourable mention of pro bono legal work done by the firm;
- tracking, recording and analysing the nature of media references to the firm's pro bono work;
- obtaining testimonials from beneficiaries and/or participants in pro bono programs;
- devising surveys and/or evaluation forms for staff;
- conducting interviews and/or focus groups with staff and other stakeholders;
- including questions about pro bono in the broader staff satisfaction surveys that are conducted by the firm; and
- incorporating questions about the firm's pro bono practice into staff appraisals.

#### **Q.8 HOW ELSE CAN THE LAW COUNCIL BEST COMPLEMENT EXISTING EFFORTS TO ENSURE THAT VULNERABLE INDIVIDUALS CAN BETTER ACCESS JUSTICE?**

The Law Council can best complement existing efforts relating to access to justice by continuing to support the rule of law and by demonstrating strong and robust leadership in support of access to justice generally and, in particular, for individuals in the Terms of Reference Groups where their access to justice is impeded or where there is a significant palpable injustice.

Participation in the social dialogue, in the media and elsewhere, about current issues has been influential in making visible the plight of particularly socially disadvantaged groups, which in turn has led to positive social change.

**Q.9 WHAT CASE STUDIES ILLUSTRATE HOW THE JUSTICE SYSTEM CAN HELP PEOPLE EXPERIENCING DISADVANTAGE SUCCESSFULLY? ALTERNATIVELY, WHAT CASE STUDIES ILLUSTRATE THE DIFFICULTIES FACED WHEN THEIR NEEDS GO UNMET? WHAT FACTORS LED TO THESE PARTICULAR OUTCOMES?**

**Case Studies – Effective Partnerships**

In the area of legal pro bono, the Centre strongly supports the development of effective and lasting partnerships to help people experiencing disadvantage. The partnerships that have been nominated for the NSW Law and Justice Foundation Pro Bono Partnership Award since the Award's inception all provide examples of successful partnerships between a private law firm, community organisation and/or community legal centre in NSW which have developed pro bono legal assistance relationships resulting in improved access to justice for disadvantaged people.<sup>32</sup>

See also the Centre's submission under Questions 1 and 2 (combined) above in which examples of successful pro bono partnerships are provided.

**Case Study - Aboriginal Legal Services – When Needs Go Unmet**

Aboriginal Legal Services (**ALS**) has been underfunded for a long period of time. This has significantly diminished the ALS' ability to be present in all courts where Aboriginal people are due to appear. Another contributing factor has been increased police numbers and prosecutions.

One consequence of this, for example in NSW and the Northern Territory, is to put significant pressure on Legal Aid Commissions. To meet the increasing demand by Aboriginal people for legal assistance, the ability of Legal Aid Commissions to service other clients is deleteriously affected.

Another effect is that Aboriginal people do not get adequate representation, while the number of Aboriginal people incarcerated continues to rise.

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<sup>32</sup> For NSW Law and Justice Foundation Pro Bono Partnership Award nominees see: <http://www.lawfoundation.net.au/ljf/app/83B78F1E0A0BFFAD852579F300180F03.html>