



Creating shared value

Reviewing Pro Bono and
Non-Traditional Support for CLCs

**Exploring Support from Law Firms
to Community Legal Centres:
Is there more we can do?**

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Foreword by WA Attorney General John Quigley

Providing access to justice is the core business of Community Legal Centres (CLCs) in Western Australia. They play a vital role in breaking down the cost barriers preventing vulnerable and disadvantaged individuals from addressing their legal predicament.

We know CLC interventions often stop the escalation of the client's legal problem to the point of crisis – and reduce the flow-on costs to the justice system and other areas such as health and housing.

That is why the West Australian Government recently increased funding to the CLC sector in recognition of the important role they play in our justice system.

There is also great capacity for law firms and other socially minded businesses to generate shared value, sustaining the vital work of CLCs with pro bono and other forms of support.

Strong and reliable pro bono arrangements between CLCs and law firms are critical to the meeting the demand for legal services. Around 50 per cent of WA based CLCs have a pro bono arrangement in place. The majority of support is in the form of delivering legal services to clients, without which many CLCs would be forced to reduce the number of clients they assist.

As this research paper demonstrates there are many non-traditional forms of support that can be offered to complement pro bono support, offering a win-win opportunity for CLCs, law firms and businesses alike.

This paper explores the range of pro bono options worthy of consideration, whilst also addressing the challenges which may have previously been a barrier to participation. It also includes case studies that demonstrate the inventive ways pro bono support can be provided.

I encourage you to consider the findings of this report and find ways you and your firm could donate your time to CLCs, for the public good.



**WA Attorney General
John Quigley**

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The Business Value of Engaging with Community

I think for me an absolutely lightbulb moment after I became Managing Director was when I invited everyone that had been in the company for 25 years or more to fly to Sydney, and I took them out to dinner as a thank you. They were all service engineers, the people that come out and fix the equipment that we sell.

Towards the end of the night, one man who hadn't spoken said he wanted to say something. He stood up and made the first public speech he'd ever made. He said, 'I've worked here for 25 years and I never told anybody where I worked. I didn't see the relevance in doing that. I did a fair day's work for a fair day's pay and that was enough. Now I tell everybody that I work for Konica Minolta. I feel proud to work for an organisation that would care about young women that have been trafficked in Cambodia.'

– Dr David Cooke, Managing Director, Konica Minolta

There is very real and measurable business value for a commercial firm in engaging with their community. Community engagement can take many forms – it may be pro bono support for law firms, or broader corporate social responsibility strategies.

Apart from there being a moral imperative, community engagement affects client, investor and employee engagement for a firm.

It matters for clients

A 2015 Nielsen study showed that 66% of clients and consumers are willing to pay more for a product based on certain sustainability factors, including organic ingredients, environmental friendliness and a display of positive social values.¹

It matters for investors

Evidence demonstrates that it has become more common for investors to reward companies for responsible behaviour and punish them for irresponsible behaviour.² This is also reflected in the rise in ethical investment, or 'responsible' investment that 'does no harm'.³

It matters for employees

Evidence suggests that where corporate social responsibility (CSR) strategies give employees the opportunity to be more authentic or employ more of their 'whole selves' at work, they will be more engaged and productive.⁴

Dr David Cooke's experience poignantly illustrates this.

¹ Nielsen, 'The Sustainability Imperative' (2015) available at <<http://www.nielsen.com/us/en/insights/reports/2015/the-sustainability-imperative.html>>.

² Caroline Flammer, 'Corporate Social Responsibility and Shareholder Value: The Environmental Consciousness of Investors' (2011) available at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1888742>.

³ Tony Featherstone, 'Ethical investing comes of age' (2017) Australian Financial Review, available at <<http://www.afr.com/personal-finance/shares/ethical-investing-comes-of-age-20170518-gw7kuc>>.

⁴ Ante Glavas, 'Corporate Social Responsibility and Employee Engagement: Enabling Employees to Employ More of Their Whole Selves at Work' (2016) Frontiers in Psychology 7, 796.

Introduction

Community legal centres (CLCs) are independent, not-for-profit organisations providing free legal advice and services to people experiencing vulnerability and disadvantage. They exist across Australia, with twenty-eight centres in Western Australia. The community legal sector has faced a number of changes recently which have challenged their sustainability in an increasingly difficult fiscal climate. These include an increasing demand for community legal services⁵; reduced funding, and uncertainty around future funding under the National Partnership Agreement on Legal Assistance Services (NPA)⁶. Community legal centres previously faced a 30% cut to the Commonwealth's proportion of funding through the NPA, which was to come into effect from 1 July 2017, but was fortunately reversed.⁷ The level of funding from the state government remains uncertain.

This uncertainty coupled with a challenging funding environment for community services generally has led the Community Legal Centres Association (WA) (CLCA) as the peak body for the community legal sector in WA to explore other ways to support CLCs. Whilst the CLCA believes that the sector should receive sustained, and additional, government funding, it is also committed to diversifying the sector's support (financial and otherwise). The project brief was to research the ways in which law firms can provide support to CLCs that either a) are legal in nature, but are **not often provided** or b) are non-legal in nature. This may include locum supervision, provision of venues for meetings or support in designing publications such as annual reports.

Anything **outside** of involvement in direct service delivery and provision of legal advice to the CLC (which are the typically provided pro bono support) is therefore in scope. The aim of this research is to provide CLCs with some ideas and evidence to expand their relationships with firms; and to provide CLCs that do not have relationships with firms some possibilities for exploration. Towards this end, this paper explores what pro bono support is and its links with shared value and corporate social responsibility, the current state of support from firms to CLCs in WA, and considers some major barriers and challenges for firms in expanding the support they provide.

Methodology

The methodology adopted an 'extended case method' approach,⁸ looking first to existing literature to determine the potential forms of support that might be provided by law firms, before collecting additional data from law firms and CLCs. In alignment with this approach, the initial stage of research consisted of desktop research on pro bono support offered by law firms to the community legal sector nationally and in WA, with some regard to international examples though this was not a focus. Ethics approval was obtained (RA/4/1/9263) and 19 interviews were conducted with pro bono coordinators from law firms, CLCs, and representatives from other sectors. The interviews were conducted in a semi-structured fashion using a series of themes with some modification for each group of interviewees. To aid generalizability of the results, interviewees were selected by way of purposive sampling to obtain views from local, national and international law firms and from regional, city-based, smaller and larger community legal centres. The interviews with representatives from other sectors explored what pro bono support looks like in other sectors and if there was anything that could be learned for the legal sector.

5 Productivity Commission, Access to Justice Arrangements: Overview, Inquiry Report No. 72 (2014) <http://www.pc.gov.au/inquiries/completed/access-justice/report>.

6 Attorney-General's Department, National Partnership Agreement on Legal Assistance Services <https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Pages/National-Partnership-Agreement-on-Legal-Assistance-Services.aspx>

7 Attorney-General George Brandis, MEDIA RELEASE: 'Record federal funding for legal assistance' (2017) <<https://www.attorneygeneral.gov.au/MediaReleases/Pages/2017/SecondQuarter/Record-federal-funding-for-legal-assistance.aspx>>



Through this process, a high level overview of the current state of support from firms to CLCs in WA was recorded; considering both pro bono and other support.⁹ The original expectation was that a small number of interviews would add context to the literature review. However, given the state of literature on different forms of support, the opposite was true. The literature review gave some context, but the interviews were a powerful source of information with respect to relationships between CLCs and law firms. The literature was strong with respect to justifying why firms should engage in pro bono support, in exploring the kinds of firms that engage in pro bono, and what pre-conditions need to exist for a firm to undertake pro bono support. There was good material on volunteers providing pro bono (rather than firms providing pro bono). There was also a subset of literature with respect to the interplay between clinical legal education and pro bono, with some referring to 'student pro bono'. However, there was little to no literature that covered a) support specifically to CLCs and b) support in a more general sense, encompassing legal and non-legal support. A key contribution of this paper, therefore, is the range of support provided in WA by firms to CLCs, alongside the barriers and drivers for those types of support.

⁸ E.R. Babbie, *The Basics of Social Research* (Cengage Learning, 2014).

⁹ A summary of the interview data, and the desktop research, is contained in Appendix 4.

What is pro bono support?

'Pro bono' generally refers to work undertaken without charge.¹⁰ It is often used to refer to legal work by law firms for disadvantaged clients, though lawyers are not the only professionals to provide free advice for people in need.

The Australian Pro Bono Centre (APBC) is widely acknowledged within the legal sector as being the authority on pro bono legal services. Their definition of pro bono includes:

- Giving legal assistance for free or at a substantially reduced fee to:
 - individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid (...);
 - individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or
 - charities or other non-profit organisations which work on behalf of low income or disadvantaged members of the community or for the public good;
- Conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest;
- Participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest; or
- Providing a lawyer on secondment at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.¹¹

Some firms (and organisations) use this definition as a basis, but may decide to further define their own practice. Clayton Utz, for example, defines pro bono more narrowly, as described by David Hillard, the pro bono partner:

*We act for **disadvantaged** people who cannot obtain legal aid and for the non-Governmental organisations which support disadvantaged people. There are other types of legal work which we might perform for free, but we do not call this our pro bono work. For example, we might choose to act for free for an arts organisation which is supported by one of our major commercial clients. It is work which we might decide to do without a fee, as part of strengthening our business relationship with a commercial client. However it is not about responding to **disadvantage** and therefore does not count as pro bono work.*¹² [emphasis added]

Some of the literature which discusses pro bono support does not clearly differentiate between situations where lawyers or law students volunteer their time to help CLCs, and situations where CLCs receive legal assistance through a pro bono relationship with a firm. The distinction is important because lawyers that support CLCs under a pro bono partnership firm are still personally being paid for their time by their firm; whereas volunteer lawyers are not. This research has not considered lawyers individually volunteering their time to support CLCs.

¹⁰ Australian Pro Bono Centre (APBC), 'Definition of pro bono' [n.d.] <<http://www.probonocentre.org.au/information-on-pro-bono/definition/>>

¹¹ Ibid.

¹² Productivity Commission, above n 1, 810.



Pro bono, corporate social responsibility and shared value

Some bodies refer to pro bono as being only legal in nature, and refer to non-legal support as 'sponsorship' or 'corporate social responsibility'¹³. This is not a universally recognised and understood definition. The Victorian Government acknowledges that 'pro bono' means different things to different people, but that it is 'generally used to describe **work** that is done for free, without the expectation of payment, or at a significantly reduced rate'.¹⁴ [emphasis added].

Many pro bono coordinators interviewed argued for maintaining a specific definition for pro bono:

'It's easier to hand over a cheque or get people to volunteer and do things...but we need to take on people as clients with difficult legal problems. This is the professional responsibility that we carry as lawyers. Everything else we do as good corporate citizens. Everyone else in the world can do those kinds of things, but our special skills are legal skills...'¹⁵

Alternatively, Winner states that in a broader sense, pro bono means working for the public good and in the public interest, and that is not just through the provision of legal advice.¹⁶ Munro and Maguire et. al. all argue for definitional change, to include a wider definition of pro bono rather than referring to non-legal pro bono support as 'sponsorship'.¹⁷

The advantage of a narrow definition means that the meaning is clear, and it becomes easier to have a common language. However, the disadvantage in defining pro bono so narrowly is that it creates a separation within the range of social good that a firm can do. In order to fully understand the engagement of a firm with the community, one has to ask about their pro bono practice, then also about other community support they provide. In some firms it is possible to ask solely about their partnerships with CLCs and other community organisations, as those partnerships are managed by the same people.¹⁸ Jenaway, now at Allen & Overy, but previously of Herbert Smith Freehills, described in 2013 how in-kind support for pro bono clients fits well with other community and volunteering activities including their long-standing relationships with a number of large NFPs.¹⁹

Another disadvantage in a narrow definition is that many law firms and lawyers, who do not have the expertise in the common matters dealt with by CLCs (for example, family law, tenancy or financial matters), perceive that they have a negligible contribution to make, which is certainly not the case. All support, including non-legal support, is valuable and through providing this support, firms are contributing to the quality and breadth of support that CLCs can provide to vulnerable and disadvantaged people who require access to justice.²⁰

'Shared value' is potentially a useful theoretical lens through which to view and relate pro bono support and broader corporate social responsibility. Corporate social responsibility (CSR) generally refers to a company acknowledging their place in a community, and looking at how they 'give back' to that community. 'Shared value' is generated by a strategy that has both an identifiable economic benefit to the company and a measurable impact on a social or environmental issue, and so Kramer and Porter describe it as 'superseding' CSR.²¹ Shared value leverages the business experience of the corporate partner, and a community partner's experience in community

13 APBC, above n 7.

14 Department of Justice and Regulation (Vic), 'Access to Justice Review' (2016) <<https://engage.vic.gov.au/accesstojustice>>, p 438.

15 Interview participant 13.

16 Amy Winner, 'The New Frontier: Changing the pro bono discussion' (2016) 240 *Ethos: Official Publication of the Law Society of the Australian Capital Territory* 22, 23.

17 Rowena Maguire et. al., 'Reconsidering Pro Bono: A Comparative Analysis of Protocols in Australia, the United States, the United Kingdom and Singapore' (2014) 37 *University of New South Wales Law Journal*, 1164; Rosslyn Munro, 'How the Community Legal Centre Sector can be Sustainable by Proactively Diversifying Funding Streams' (2015) <<https://www.churchilltrust.com.au/fellows/detail/4054/Rosslyn+Monro>>.

18 Interview participant 14.

19 David Jenaway, 'Pro Bono - it's the vibe of the thing' (2013) 40 *Brief (Law Society of WA)* 14, 14.

20 Interview participant 2.

21 Michael Porter and Mark Kramer, 'Creating Shared Value: How to Reinvent Capitalism and Unleash a Wave of Innovation and Growth' (2011) 89 *Harvard Business Review*, 62, 65.



development, and as a result of combining this different expertise, the resulting services produced in partnership are better than what either could have produced in isolation.²² David Cooke, MD of Konica Minolta is very passionate about shared value, though he does not use that specific terminology. His PhD thesis focussed on partnerships between businesses and NFPs. He argues that 'redefining the epistemology' of not-for-profit and corporate engagement requires understanding each other's needs in order to create value, rather than unidirectional philanthropy which is 'fuelled by the moral imperative'.²³

In acknowledgement of the considerable work that has been undertaken in defining pro bono, this paper attempts to continue to maintain some consistency in separating the kinds of support – first, describing pro bono and other legally oriented support for CLCs, and then discussing non-legal support.

²² Ibid.

²³ David Cooke, Redefining the epistemology of the corporate/not-for-profit engagement (2010) <http://works.bepress.com/david_cooke/4/>.

Case Study: The Role of Law Access

Law Access co-ordinates the delivery of pro bono legal services in Western Australia. It provides a gateway for individuals and not-for-profit groups to have their requests assessed and referred.

The diagram shows the relationship between CLCs and Law Access, as well as the relationships between CLCs and individual lawyers and law firms. Currently, more than 10 per cent of WA lawyers are registered with Law Access.

The Issue

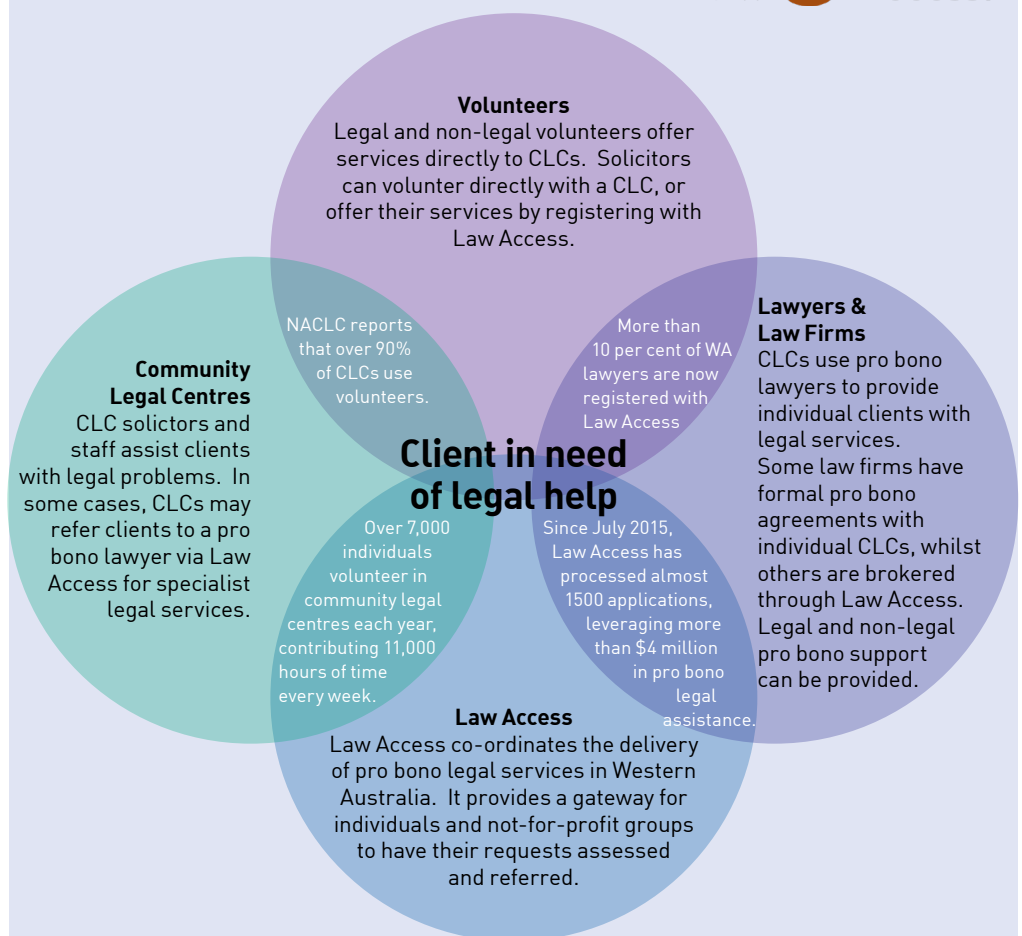
A Community Legal Centre had four clients in remote Western Australia with upcoming hearings who were at risk of being permanently separated from their children.

The Ask

The CLC approached Law Access on behalf of their clients to access pro bono legal help for the four cases.

Pro Bono Support

Law Access was able to fly a pro bono barrister with special expertise from Perth to assist these clients to achieve a settlement. The barrister then offered to train staff members to build capacity within the CLC service.



Current state of pro bono support for CLCs

Each year the national peak body, the National Association of Community Legal Centres (NACLC) conducts a census of member centres to map trends and changes in the CLC sector and its clients. Pro bono partnerships are one of the factors examined. Of the 122 centres that answered this question nationally, 63.1% (77 CLCs) reported that their CLC had a pro bono partnership with a business in place.²⁴ This demonstrates how important pro bono relationships are to the sector. Specifically with respect to WA CLCs, 17 answered the NACLC census, and 58.8% of them had a pro bono partnership (10 responses), compared to 41.2% (7) that did not.²⁵ Of the CLCs interviewed, all had a pro bono relationship in place.

In terms of what kind of support these partnerships consist of, NACLC mapped the number of hours spent by pro bono lawyers to particular activities. For 77.1% of responding CLCs, the activity of pro bono included involvement in direct service delivery (i.e. delivering legal services to clients). This form of pro bono is so significant that 79.9% of the total hours provided by firms through pro bono to the sector was dedicated to this particular activity.²⁶ The next most popular answer was the provision of advice or assistance to the centre itself (usually in the form of governance, employment, or contract advice), with 74.3% of centres receiving this activity pro bono. However, the total number of hours spent on this activity by firms providing pro bono support was only 4.8%.²⁷ This means that whilst the number of centres receiving that support is significant, it is not as significant in terms of the quantum of support actually provided. The WA data echoes these trends:

Activity	% of responding CLCs	Maximum hours per CLC	Total Hours to CLC Sector
Involvement in direct service delivery	66.7	2600	4305
Provision of advice or assistance to the centre	77.8	50	188
Provision of advice by specialist lawyers	66.7	100	188
Policy advocacy and law reform	33.3	50	65
Community Legal Education	22.2	10	20
Legal Practice Management	0.0	0	0
Accounting/Bookkeeping	0.0	0	0
Administrative Support	0.0	0	0
Governance/Management	11.1	20	20
Publications (e.g. design & printing)	33.3	50	75
Marketing	22.2	10	15
Fundraising or sponsorship	22.2	30	35

Table 1: Pro bono activities received by CLCs from firms, including the total hours to the CLC sector in each area.

²⁴ National Association of Community Legal Centres (NACLC) NACLC Census National Report (2016) <<http://www.naclc.org.au/resources/NACLC%20Census%202016%20National%20Report%20-%20FINAL.pdf>>.

²⁵ Ibid. However, these are the WA specific results that are not publicly available.

²⁶ NACLC, above n 22, 25.

²⁷ Ibid.



Clearly, firms regularly provide **support directly to organisations**, both CLCs and NFPs, assisting with restructuring, terms and conditions and other documents related to governance.²⁸ One firm commented that they were receiving so many queries from businesses and NFP organisations about structuring their affairs financially that they are trying to build a relationship with a financial services firm to jointly deliver support...²⁹ A number of firms undertake pro bono advocacy for larger NFPs, such as the RSPCA and Aboriginal corporations.³⁰ The CLCs, however, are the focus of this paper. Many firms work with the specialist centres - Street Law³¹, Employment Law Centre³², Women's Law Centre³³ and Tenancy WA³⁴ were mentioned most commonly. Law Access was also noted numerous times, with one firm in particular describing Law Access as a 'game-changer' in transforming how they provide pro bono.³⁵

The level of pro bono support, based on the literature review and the interviews, seems significant; however, it is interesting to note that the Productivity Commission stated that the level of pro bono services, placed in a broader context, is 'relatively modest', being 3% of the capacity of the legal assistance sector, and less than 1% of the entire legal market.³⁶ Reflecting on both the desktop analysis and the interviews conducted, it does seem that a small number of firms are providing the vast majority of pro bono support into CLCs. From this perspective then, there is an argument that more pro bono **generally** could be encouraged into the CLC sector. It should always, however, complement support provided by the legal assistance sector rather than displacing or replacing it.

28 Interview participant 9; Interview participant 8; Interview participant 15.

29 Interview participant 9.

30 Interview participant 8; Interview participant 9.

31 Interview participant 8; Interview participant 9.

32 Interview participant 8; Interview participant 9.

33 Interview participant 9; Interview participant 15.

34 Interview participant 9; Interview participant 15.

35 Interview participant 15; Interview participant 17.

36 Productivity Commission, above n 1, 32.

Less common support

As described above, the forms of pro bono support typically provided are involvement in direct service delivery, provision of advice by specialist lawyers, and provision of legal advice to the centre. This paper will now focus on the support provided, both legal and non-legal in nature, which are **not** in these three areas. This includes the activities in Table 1 from 'Policy advocacy and law reform' down to 'Fundraising or sponsorship', and other items not included in the NACLC census.

Legally oriented support

There is a significant amount of legally oriented support that does not fit into those three common categories that firms are providing to CLCs. **Research and submission-writing** is a popular mechanism of support³⁷. One firm described their national work with the Human Rights Law Centre on travel bans and submissions with respect to the Same Sex Marriage plebiscite.³⁸ Another firm supported a regional CLC to undertake a submission on indigenous deaths in custody.³⁹

Another common area for firms was **supporting individuals in applications** outside of their work with CLCs. They often saw this work as complementing the work of CLCs, freeing them up to work on issues of a more critical nature. For example, one firm has spent time working on criminal injuries compensation claims⁴⁰, and another on parole applications for female indigenous prisoners through the Prisoners Legal Service in Queensland.⁴¹ These are areas where the nature of the issue is important, but it is not at a critical point. Further, as identified by the firms engaged in this work, supporting individuals to complete applications is not really 'legal' in nature.

Some firms provide document production support in litigation matters.⁴² For example, in the Victorian office of an international firm, they support CLCs by linking them with their word processing system. One example was where a CLC spoke with 40-50 women experiencing domestic violence for a particular case, and the firm transcribed those interviews.⁴³ The firm described this as something they could do easily, when it would have cost the CLC considerable resources.

Other examples include:

- Some firms have **relationships** where graduates of their firm are seconded to CLCs for a period of time;⁴⁴
- The exploration of supervision of law students through innovative clinic structures;⁴⁵
- Reverse secondments, where CLC lawyers spend time on secondment to a firm. Arnold Bloch Leibler has extended this practice to non-legal staff. An accountant from the Land Council at Groote Eylandt recently spent two months on secondment with Arnold Bloch Leibler's accounts department.⁴⁶
- One international firm provides secondments to two regional CLCs to cover leave of the Principal Solicitor, so they can continue to run their legal practices;⁴⁷
- A number of firms provide positions within training sessions for CLC lawyers to attend free of charge;⁴⁸
- One firm nationally has provided phone a friend or early supervision support for new lawyers in a particular specialized area, as a way of mentoring lawyers and promoting collegiate support across sectors.⁴⁹ This support is something that has been suggested by some WA CLCs to be of use to them, and something they would like to see more of.⁵⁰

37 The likely NACLC category related to this is Policy advocacy and Law reform.

38 Interview participant 17; Interview participant 9.

39 Interview participant 10.

40 Interview participant 10.

41 Interview participant 17.

42 Winner, above n 14, 23; Interview participant 13.

43 Interview participant 13.

44 Jenaway, above n 17, 15; Interview participant 8.

45 Interview participant 1.

46 Department of Justice and Regulation (Vic), above n 11, 459

47 Interview participant 13.

48 Winner, above n 14, 23; Department of Justice and Regulation (Vic), above n 11, 458 Interview participant 13; Interview participant 15.

49 Interview participant 13; Winner, 2016, p 23

50 Interview participant 7.



- Another firm has played a major role in supporting the development of health justice partnerships.⁵¹
- Sparke Helmore partner with ALS to deliver a service once a year in a regional area focussed on helping Aboriginal people develop wills.⁵²

Donated law reports and access to law firm libraries and access to databases can cost CLCs thousands of dollars.⁵³ This has therefore been identified as an area where firms might be able to provide support. Throughout the literature review and interviews, there were no examples of this occurring. One of the reasons why there may not be any practical examples yet is that CLCs haven't thought of it and so have not asked the question. One of the firms echoed this in stating that they had not thought about providing that support because no one had asked them.⁵⁴

Non-legal support

The literature with respect to if (and how) non-legal support is provided is very limited. There are five activities listed in the NACLC Census that are non-legal in nature (accounting/book-keeping; administrative support; governance/management; publications (e.g. design and printing); marketing and fundraising/sponsorship). Combined, these activities took up 2.57% of the total hours provided by pro bono partners to the sector nationally, with no firm providing accounting/book-keeping support. Potentially, there is an opportunity to expand this kind of support.

The Community Legal Centres in Queensland (CLCQ) have identified some possibilities for structured non-legal support, with staff in **human resource management and ICT** providing support to CLCs.⁵⁵ This could take the form of a secondment, or one-off advice or a project specific engagement. CLCQ have had some early indications of support for this strategy, though it has not yet been fully implemented. Nationally, firms have provided some HR support.⁵⁶ One in particular placed a HR person on secondment with a national NFP that had almost no HR systems. The relationship started as providing legal advice on employment liability, and now a firm HR Manager does 10 hours a week for them.⁵⁷ This same firm also had an example of providing IT support in Sydney to a national NFP that grew very quickly.⁵⁸ This kind of support has been identified as important not just by CLCs in Queensland, but CLCs in WA. They are particularly interested in support with policies and procedures required for the NACLC National Accreditation Scheme.⁵⁹

There is other precedent for secondments from a firm's non-legal staff. Engagement with structured secondment programs for legal and non-legal staff was mentioned more than once in the interviews. A number of firms send legal and non-legal staff to the **Jawun Secondment** programme to the East Kimberley region to help build capacity in Indigenous organisations in remote communities.⁶⁰

Opportunities for **funding and sponsorship** can be contextualised in corporate social responsibility strategies. Some firms have a separate charitable foundation; and so support such as financial sponsorship runs through the foundations.⁶¹ As one interview participant stated,

'It's a criteria [for the Foundation] to give money that we have to have a connection with the firm. We can't fund it unless there's a connection with our people, or more likely, a pro bono relationship...'⁶²

51 Interview participant 13.

52 Sparke Helmore, Our Pro Bono Program [n.d.] <<http://www.sparke.com.au/our-firm/initiatives/our-pro-bono-program/>>

53 Interview participant 4.

54 Interview participant 15.

55 Community Legal Centres Queensland (CLCQ), Blood from a Stone Report (2017) http://communitylegalqld.org.au/sites/default/files/downloads/pages/final_report.pdf, 3-4.

56 Interview participant 14.

57 Interview participant 14.

58 Interview participant 14.

59 Interview participant 4, Interview participant 6, Interview participant 7.

60 Jenaway, above n 17; Interview participant 17.

61 Interview participant 13.

62 Interview participant 13; Interview participant 10.



Other firms had the same perspective. One firm interviewed provided financial support to individuals as well as to organisations, which was unique.⁶³ Not all firms give money however; and, of the firms surveyed, approximately half have foundations or funds, but the other half did not feel they were in a position to give money beyond very small sponsorships for NFPs with which they had deep relationships.⁶⁴

Clayton Utz partners with a NFP organisation (not a CLC), and provides that program manager with a **city office** and administrative support, making life easier for her when she has to meet and liaise with other corporate sponsors.⁶⁵ The example of providing office space also exists in other sectors.⁶⁶ Office space is something which could be of great use for CLCs in WA,⁶⁷ but it has had very little practical exploration as a possibility to date.

All firms that engaged in the consultation had provided **venues and catering** for CLCs for workshops or conferences.⁶⁸ A related but as yet unexplored avenue that WA CLCs could find useful is support in event planning and management, or sharing in the cost of guest speakers, flights and accommodation for conferences that CLCs facilitate.⁶⁹

Other examples where firms are providing non-legal support to CLCs include:

- One firm held an event where they invited corporate clients and pro bono partners, providing an **opportunity to introduce CLCs to their clients** that may be able to support CLCs.⁷⁰
- A majority of firms interviewed had previously provided **graphic design support** and printing for documents for CLCs, such as annual reports.⁷¹
- Two CLC interviewees currently receive **archiving** support from from a firm, where that firm stores their documents for them rather than their paying for this service.⁷²
- Another interview participant had **donated furniture**, such as desks and chairs, and IT equipment such as telephones and computers to CLCs when their office upgraded.⁷³

A number of firms are also very active with respect to encouraging staff to **volunteer for organisations and attend fundraising events** such as quiz nights, either within their paid employment or outside of it.⁷⁴ This is not examined here, as the scope is particularly focussed on support that firms could provide to CLCs; but it is important to acknowledge it as an important element within a broader corporate social responsibility strategy for firms.

Finally, some firms had not really considered engaging with CLCs to provide non-legal support beyond offering training facilities. However, no firm stated that they had no appetite for it, indicating only that they had not been asked.⁷⁵

Opportunities for non-legal staff

Almost all firms acknowledged that pro bono arrangements generally do not provide many opportunities for non-legal staff to engage with their community partners. Many stated that because pro bono matters are run the same as other matters, legal secretaries and other staff are involved to the same extent as they would be on other matters.⁷⁶

63 Interview participant 12.

64 Interview participant 9.

65 Anne Susskind, 'Law firms tuning in to literacy, homelessness, cancer research' [2013] 51 Law Society Journal 20, 20.

66 Interview participant 11.

67 Interview participant 4; Interview participant 7.

68 Winner, above n 14, 23; Department of Justice and Regulation (Vic), above n 11, 458; Interview participant 13; Interview participant 15; Interview participant 12; Interview participant 17; Interview participant 16; Interview participant 8.

69 Interview participant 4.

70 Interview participant 10.

71 Interview participant 15; Interview participant 16.

72 Interview participant 14; Interview participant 2.

73 Interview participant 16.

74 Interview participant 15; Interview participant 14; Interview participant 9; Interview participant 8.

75 Interview participant 8; Interview participant 15.

76 Interview participant 13; Interview participant 17; repeated by many others.



There is evidence to suggest that non-legal staff would appreciate opportunities to engage more with CLCs, and use their skills at the same time. For example, one CLC was receiving firm solicitors on their evening legal service, and their legal secretary wanted to be involved. Whilst lawyers were involved with the clinic service on a Tuesday night, she would attend and assist the CLC to get prepared for their accreditation process by setting up templates, and downloading policies and procedures and document templates.⁷⁷

Several firms emphasised a desire to have a more sophisticated way to involve non-legal staff in relationships because those engagement opportunities are important for them;⁷⁸ however there are particular barriers involved in releasing non-legal staff to do this work. Firms generally felt their administrative staffs were fully utilised and committed.⁷⁹ And, as one firm stated, it is more difficult for a non-legal staff member to make hours up later at night, as most of their time is required during the day.⁸⁰

Firms were generally open to exploring possibilities in the utilisation of their non-legal staff, and almost universally stated that they would like to see more information on what requirements particular CLCs may have, and to see if they can make an arrangement work.⁸¹ However, once again, most firms highlighted that the most important role for legal firms is to provide legal support. It is the key element of contribution, and the first step in creating an integrated, holistic relationship.

⁷⁷ Interview participant 4.

⁷⁸ Interview participant 9.

⁷⁹ Interview participant 15.

⁸⁰ Interview participant 14; Interview participant 15.

⁸¹ Interview participant 15; Interview participant 14; Interview participant 17; Interview participant 9.

Case Study: #hashtag Social Media Launch

The Issue

Consumer Credit Legal Service (WA) Inc. (CCLSWA) understands that education and early intervention help prevent minor legal problems from becoming complicated issues. Indeed, community legal education sessions and CCLSWA's website offer a wealth of information about consumer rights and obligations. Unfortunately, many people who could benefit from CCLSWA's assistance do not know that these services exist. This often means that by the time clients approach CCLSWA, their problem has reached a point where they require complex legal advice or court representation, placing them under extra financial and emotional pressure.

In a bid to raise awareness about CCLSWA's services, and to encourage the community to better understand their legal rights, CCLSWA decided to launch itself into the world of social media with CCLSWA solicitors and volunteers contributing over six months of hard work to develop a Facebook, Twitter and LinkedIn presence. All that work culminated with an official Social Media Launch designed to showcase CCLSWA's social media pages.

The Ask

CCLSWA knew a successful launch would be critical in creating a buzz around the new social media sites and generating traffic. They decided to ask law firms and businesses to work collaboratively with them on the launch by providing resources and inviting their networks.

Support provided

DLA Piper arranged the venue, Cullen MacLeod and Cellarbrations donated the wine, and the Piddington Society supplied the glassware. This non-traditional support was critical to the success of the Social Media launch.

The event showcased all CCLSWA's social media pages and demonstrated how they would be used to engage with various audiences, with an informative overview from a McCusker Centre for Citizenship intern Lawrence Page. The evening was very well attended with the Hon Judge Gething being present; and Solicitor General Peter Quinlan SC delivering the keynote speech.



Solicitor General Peter Quinlan SC, Gemma Mitchell, Rosie Poole, Sarah Ozanne & Emma Cavanagh at the CCLSWA Social Media launch

“We utilised a lot of Pro Bono help with the event. The event was a huge benefit to us as it gave us great stakeholder engagement opportunities and increased our networking reach”

- CCLSWA Manager



Barriers and challenges in expanding firm support

The purpose of exploring some of the barriers and challenges to expanding pro bono and other support is to ensure there is a common understanding as to why some opportunities for firms to support CLCs have not been taken up, and what prevents firms from being able to do more. It is easy to say firms could do more given their larger resourcing; however, it is important to note the barriers so that in approaching firms, CLCs can consider the 'shared value' in a given opportunity, and consider the needs of the firm as well as their own.

Firm culture

The culture within a firm can impact on the willingness of lawyers to undertake pro bono services. One of the pro bono partners stated that their pro bono culture was good, but that some of the larger offices struggled.⁸² As one pro bono coordinator stated, some people are simply more inclined to do pro bono, and some do not have an interest.⁸³ For some firms, it is not assessed and it is not part of people's KPIs, and so it is not regularly reported on.⁸⁴ For others, it is a requirement for all lawyers that they meet a minimum target for pro bono, and it is directly linked to performance appraisals and bonuses.⁸⁵

Support for pro bono at the partner and manager level can play a very important role in the culture.⁸⁶ Two partners were interviewed in the course of this research, and the impression from their interviews, and from those of their other staff, was that their personal commitment to pro bono, and their personal work in that area, was a strong influence for others in their firm.

Firm and staff capacity

One of the three biggest challenges facing the pro bono programs of Australian firms, raised by 83% of firms, is firm capacity.⁸⁷ A United States study of participation rates in pro bono demonstrated that lawyers did pro bono when they felt they could afford it.⁸⁸ Firms, then, are likely to engage in support for CLCs when they feel they can afford it. In a number of interviews, firms said that they are 'lean' with respect to non-legal staff, and so the opportunities to engage them more formally in pro bono arrangements are limited. This experience is mirrored by that of a financial services firm, where non-client facing staff do not play a significant role in pro bono arrangements because they are fully utilised in terms on internal work.⁸⁹

Individual staff capacity is also a consideration from the perspective of the kinds of work lawyers feel that they can take on. For one firm interviewed, many of their clients are not paying for their legal fees out of their own pocket, and are generally engaging in personal injuries claims. They are often very vulnerable given their experiences. For this firm's lawyers, working with these people day-to-day takes a toll; and makes it harder for them to volunteer to take on work for CLCs and their clients who are also vulnerable and disadvantaged. In comparison, for a commercial lawyer, taking on a matter on behalf of vulnerable people is quite different from their day-to-day work. Considering staff mental capacity is also important, and can be a barrier to some firms doing more.⁹⁰

Releasing staff on secondments

Related to firm capacity is the more specific and often mentioned barrier of releasing staff for secondments. The Productivity Commission report suggested that one of the most useful ways CLCs can be supported is for law firms and government to provide

82 Interview participant 15.

83 Interview participant 8.

84 Interview participant 12.

85 Interview participant 10; Interview participant 13.

86 Productivity Commission, above n 1, 822.

87 John Corker, 'Large firm pro bono work grows but extra capacity hard to find' (2017) 39 Law Society of South Australia Bulletin 16, 16; Productivity Commission, above n 1, 32.

88 Scott Cummings and Rebecca Sandefur, 'Beyond the Numbers what we know and should know about American Pro Bono' (2013) 7 Harvard Law and Policy Review 95, 95.

89 Interview participant 18.

90 Interview participant 12.



seconded lawyers.⁹¹ Anecdotal evidence supports this. However, interviews with firms also highlighted that it can be difficult for firms in WA at least to release their staff on secondments compared with other states.⁹² Perth teams were described as small compared to those in Melbourne or Sydney, where lawyers may be seconded to clearing houses regularly.⁹³ In a small team, paying lawyers who are not bringing in revenue presents a number of business challenges.⁹⁴ Firms in WA tend to appreciate opportunities to deliver work for CLCs that do not involve secondments, such as research and other support that can be completed from the firm's office.⁹⁵

Assumed capacity does not exist

A barrier to firms engaging in more non-legal support to CLCs is that the back-of-house capacity that is assumed to exist may not exist. As one interviewee explained, 'one of the things about big firms is that a lot of the expertise assumed that we have, we don't necessarily have in house. For example, not many firms have sophisticated design capacity - we often pay external bodies to provide that'.⁹⁶ This was echoed in comments from others. Administrative support can be difficult, because that tends to be the first place firms look to in terms of rationalising.⁹⁷ And as some firms stated, they may have HR, finance, accounting and IT expertise, but it is often located in Sydney or Melbourne, and there is no spare capacity in Perth.⁹⁸

Building strong relationships

All firms interviewed for this research stated that they would look to engage with a NFP or CLC initially on a pro bono basis (i.e. legal advice), and then expand the relationship to 'wrap-around' other support, which they would consider more 'corporate social responsibility' or in-kind sponsorship. Most firms agree that a comprehensive partnership is the ideal state for relationships with CLCs. Winner describes the work of Russell Kennedy in partnering with CLCs with the aim of building their capacity so they can better assist their communities.⁹⁹ The Victorian Access to Justice Review also showcased their work with Peninsula CLC, a partnership that has 'gone beyond the traditional confines of simply referring clients to lawyers...'¹⁰⁰ Peninsula CLC receive support from Russell Kennedy's administrative workers, human resources, business management and lawyers; they 'arranged for the professional designing and printing of public newsletters, photocopied brochures, printed and bound our volunteer manuals...created an annual disbursements fund that pays for process servers and other unaffordable necessities for clients; supported an organisational management structure... sponsored staff recognition awards, hosted events at their premises, established a mentor program, provided continuing professional development for staff and volunteers, advised on community legal education materials - and accepted client referrals.'¹⁰¹

The Australian Pro Bono Centre's *Best Practice Guide* outlines developing strong and deep relationships with community partners as one of the ten elements of a best practice pro bono program.¹⁰² As one pro bono coordinator described, it is hard to enter a partnership straight away, and starting with pro bono is a way to test the relationship, and then consider other ways of getting involved. After a good experience, the firm is inclined to offer, or be open to, different ways of engaging.¹⁰³

The best relationships are described as mutual. Firms find it easier to give non-legal support to CLCs that think about and work on the relationship with the firm as well,

91 Productivity Commission above n 1, 822.

92 Interview participant 8; Interview participant 15.

93 Interview participant 14.

94 Interview participant 10.

95 Interview participant 14; Interview participant 9.

96 Interview participant 13.

97 Interview participant 3.

98 Interview participant 12; Interview participant 17.

99 Winner, above n 14, 23.

100 Department of Justice and Regulation (Vic), above n 11, 458.

101 Ibid.

102 Australian Pro Bono Centre, The Australian Pro Bono Best Practice Guide (2016) <http://www.probonocentre.org.au/wp-content/uploads/2016/05/APBC_What-is-best-practice-FULL-FINAL.pdf>

103 Interview participant 8.



think about where they might add value such as, for example, to lawyer's skills through delivering training for them. This idea of mutuality is a key principle of shared value, described earlier. As Porter and Kramer, and Cooke describe, shared value is about considering value creation¹⁰⁴; and that can be conceived in context of value for society, value for business, and value for each other in the partnership.

Finally, relationships take time to build. Having a weak relationship, and a lack of time to build a relationship, is therefore another barrier to having more pro bono and other support from firms.

Finding relationships

As the Federation of Community Legal Centres (FCLC) stated in their submission to the Victorian Access to Justice Review, 'for those CLCs that do not already have a relationship with a pro bono firm, relationships can be difficult to establish. This is in part because firms with substantial pro bono practices already have relationships with one or more CLCs and do not have capacity to work with new partners; in part that the CLCs are not able to articulate what they need pro bono support for...'¹⁰⁵

Another point made in an interview is that generally pro bono relationships originate with particular people who have the relationships with community organisations.¹⁰⁶ One way that these connections can originate is from a lawyer sitting on the board of a CLC. Networks of lawyers then sitting on different CLC boards can engage with one another, and a picture of the needs of the CLC sector, a 'joint intelligence' develops. If there are fewer lawyers from firms sitting on CLCs, because less people are volunteering, or boards are not intentionally renewing their membership, then there are fewer opportunities for a) networks of private lawyers to engage with the needs of CLCs and understand their needs and b) relationship building with firms.¹⁰⁷

Acknowledging skills on both sides

Another important element in building strong relationships between firms and CLCs is being able to acknowledge the skills that each brings to the table. David Cooke has examined this in detail through his own research. He describes a 'beautiful synergy between profit making companies and NFPs, where their strengths are completely different.'¹⁰⁸ He fundamentally believes that the strengths each party holds are opposites, and opportunities for growth for the other. Similarly, CLC lawyers and private lawyers have different strengths and weaknesses, and it is important to acknowledge that.

As one interviewee stated, CLCs should not come 'cap in hand' to firms because there is shared value for private lawyers in working with CLC lawyers:

'Our firm does a significant amount of work for victims of crime around the country, and that's been led and trained at some stage by local community lawyers'.¹⁰⁹

CLCs need to understand, and articulate, the expertise they bring as community lawyers. An interviewee describes the skills of CLC lawyers as **multi-specialised** rather than generalist, which is how they are often described.¹¹⁰ As this interviewee stated, 'there is no firm that engages with the Children's Court to the same extent and with the same expertise as the Youth Legal Service...'¹¹¹ It is important for building strong, holistic relationships that both sides of the partnership can acknowledge each other's strengths, and some firms identified this as an area where they could improve.¹¹²

¹⁰⁴ Porter and Kramer, above n 19, 66; David Cooke, *Redefining the epistemology of the corporate/not-for-profit engagement* [2010] <http://works.bepress.com/david_cooke/4/>.

¹⁰⁵ Department of Justice and Regulation [Vic], above n 11, 455.

¹⁰⁶ Interview participant 12.

¹⁰⁷ This is an anecdote from one lawyer, and it was the last interview conducted, so difficult to test this theory with others. Her reflection was that she doesn't know anyone anymore sitting on a CLC board, whereas she used to sit on one herself, and be connected to others that would sit on them.

¹⁰⁸ Interview participant 11.

¹⁰⁹ Interview participant 13.

¹¹⁰ Interview participant 1.

¹¹¹ Interview participant 1.

¹¹² Interview participant 13.

Case Study: Win Win - Working Collaboratively

The Issue

As is the case with many CLCs, the Employment Law Centre (ELC) of WA has limited capacity to meet the huge demand for statewide specialist services from vulnerable people who are experiencing complex workplace issues.

The Ask

To better meet this legal need and sustain services, the ELC has developed pro bono partnerships to maximise the time and resources of ELC staff.

One vital aspect to meet demand is utilising lawyers from the public and private sector as secondees to provide quality legal services for clients.

Another important aspect is client access to lawyers who volunteer during a weekly evening legal service. This service offers clients the opportunity to meet with volunteer lawyers to review legal documents, draft correspondence or submissions, advise on the merit of a client's case or prepare for a hearing.

Further, ELC is able to brief complex matters to law firm's pro bono teams where it hasn't had the resources to continue supporting a client in-house.

Law firms have also generously provided ELC with advice for our service, hosted training sessions and thank you events, and printed education resources.

Pro Bono Support

Corrs Chambers Westgarth has been providing a secondee lawyer to the CLC on a pro bono basis one day a week for over nine years, the Australian Government Solicitor has been doing the same for the last eight years and more recently, Minter Ellison has provided secondee lawyer since 2014. Each secondee stays at ELC for four to six months to a year before they are rotated. This ensures secondees can grasp the area of law, feel part of the ELC legal practice, journey with ELC clients and offer service stability.

Up to twenty highly regarded, experienced workplace relations and employment practitioners from a range of law firms volunteer on ELC's Evening Legal Service.

The pro bono and volunteer contributions from secondees, volunteer solicitors together with volunteer law students are worth an estimated \$700,000 to \$1 million annually to ELC.

"Working as a secondee with ELC is both personally and professionally rewarding ... I am broadening my legal knowledge and improving on the level of service I can provide to vulnerable clients..." - Australian Government Solicitor secondee

In addition to providing advice and expertise at regular evening legal service appointments, some volunteers have also provided cover during a period of leave by ELC's Principal Solicitor – allowing the Principal Solicitor to take leave when previously it had been very difficult.

“Generous pro bono support is absolutely invaluable and critical – it increases our capacity and makes a significant difference to our service provision, clients and staff”. – ELC Principal Solicitor



Australian Government Secondees: Solene Yik Long and Joe Graneri



*Corrs Chambers Westgarth Seconded
Richard Shugrue*



*PLT Volunteers Penny Williams and
Alexia Larcher*



Procurement incentives in WA

There are procurement incentives currently in place nationally to encourage pro bono. The Australian Pro Bono Centre's aspirational target is at least 35 hours of pro bono legal services per lawyer per year, and a number of firms and individual lawyers have signed up to the aspirational target.¹¹³ The Commonwealth, Victorian, South Australian and New South Wales Governments now include pro bono requirements in their tender arrangements for legal services, though they differ between jurisdictions.¹¹⁴ These requirements seem to have been successful in increasing the pro bono contribution made by law firms. For example, in Victoria in 2005-2006 the Victorian Government Legal Services Panel arrangements resulted in pro bono legal services to the value of \$5.2 million being performed. This contribution increased to approximately \$7.7 million in 2006-2007, \$12.4 million in 2007-2008 and by 2010-2011 had reached \$22.08 million.¹¹⁵ It has been difficult to date to find information on arrangements for the state government in tendering out legal services, and the opportunities for pro bono requirements in that process.¹¹⁶ Procurement incentives provide a clear opportunity to encourage firms to engage in pro bono and implementing a similar regime in WA would likely increase pro bono from firms, even if it does not directly flow to CLCs. In the context of this paper, there is also a question about whether procurement incentives could include some of the non-legal support, given the significant value it adds to the CLC sector and in turn to people experiencing vulnerability and disadvantage.

Another advantage to procurement incentives may be increasing the number of firms in the 'pro bono market'. Largely, the impression across the literature review and interviews is the significance of the pro bono contribution of firms. However, there was a theme, though less expressed, that there are firms in WA not engaging in support. As one interviewee stated:

'It does seem to me that the situation is that a small handful of firms are making the significant share of the pro bono contribution and it is important to at least open the conversation about the responsibility of the rest....'¹¹⁷

Procurement incentives in WA may play a role in enhancing the contribution of other firms.

Asking the question

Every firm stated at some point during their interview that, subject to their desire for legal pro bono and other support **together** to form the basis for a holistic community partnership, they would consider requests from CLCs for different kinds of support:

'Often the non-legal stuff is so easy for a law firm to provide – it's a business as usual approach. If CLCs asked more we'd be happy to provide'.¹¹⁸

Given this perspective, a final barrier worth noting is that CLCs are simply not asking the question. Whether this is time and capacity or skill and knowledge is not clear, and that could be the subject of an additional piece of work by the Association.

113 Australian Pro Bono Centre, Aspirational Target (n.d.) <<http://www.probonocentre.org.au/provide-pro-bono/aspirational-target/>>

114 Australian Pro Bono Centre, Government Tender Arrangements (n.d.) <<http://www.probonocentre.org.au/provide-pro-bono/government-tender-arrangements/>>

115 Ibid.

116 Interview participant 2.

117 Interview participant 2.

118 Interview participant 15.

Importance of strategy in pro bono

It is often stated that pro bono should complement existing service delivery, and that it cannot, and should not, displace government funding.¹¹⁹ This perspective acknowledges the extent of legal need, and the role that different stakeholders need to play to ensure a robust and effective eco-system of legal support for people experiencing vulnerability and disadvantage. However, as Rix states, 'whatever the mix of motivations for offering legal services pro bono which obtains for a law firm ... the range of services offered, the choice of clients, and the standard of service provided will all to some extent be subject to commercial considerations.'¹²⁰ In a sense, this can be seen in the fact that firms all set their own pro bono priorities rather than focussing their efforts in the most effective way for the eco-system and ultimately for meeting legal need.

This is not to say that firms do not try to ensure their contributions add value to the system. A study from WA in 2013 highlighted that since the 1990s and the continuous revision of funding for state legal assistance services, there has been a change in emphasis from pro bono addressing matters of 'public interest' to increasingly been asked to also respond to unmet legal need in individual matters.¹²¹ This trend, as well as a broader question about strategy across the legal assistance landscape, raises questions. Given the legal profession's continued commitment to provide pro bono, strategically, what should this look like?¹²²

Firms are supportive to considering a strategic approach to pro bono. One lawyer stated that CLCs almost need respite style help – they are always struggling, and there are consistently matters they are not able to attend to themselves which firms can support with.¹²³

Another lawyer considered that another key area where firms could contribute to the eco-system of legal assistance was in possibly servicing the 'missing middle', the demographic of people who are not able to receive Legal Aid and are not on government benefits but still do not earn enough to ensure access to justice.¹²⁴

Student pro bono/role of law schools

The argument for more strategy in pro bono provided by private law firms can also be applied to university law schools. Taylor and Cappa argue that compared to countries like Canada and the US, Australia's law schools have a 'haphazard engagement' with pro bono support.¹²⁵ Cantatore similarly advocates for a 'stronger focus on pro bono programs, and indeed, pro bono clinics in law schools, as distinct from externship programs for academic credit.'¹²⁶

In a recent review of the South Australian community legal assistance sector, Ernst and Young found that there is an opportunity to boost the capacity of University Law Clinics to enable sustainable provision of metropolitan community legal assistance, and recommended that law clinics should form an important, and strategic, part of the legal assistance landscape in SA.¹²⁷ Similarly, the Victorian Access to Justice Review recommended requiring law students to undertake training in delivering pro bono services under the supervision of law firms or community legal centres.¹²⁸ Given other jurisdictions are seeing the possibilities in using law schools more strategically; there are likely to be possibilities for these arrangements in WA.

One interviewee emphasised that opportunities for CLCs to engage with firms can be higher when the firms are also engaging with students, as firms seek opportunities to engage with students and market graduate opportunities.¹²⁹ There is the potential then to

119 Mark Rix, 'Community legal centres and pro bono work: for the public good?' [2003] 28 *Alternative Law Journal*, 238; Productivity Commission, above n 1.

120 Rix, above n 121, 240

121 Kalico Consulting, *Doing the Public Good: A Feasibility Study of Pro Bono Models for Western Australia* (2013) <<https://www.lawsocietywa.asn.au/wp-content/uploads/1970/01/WA-Pro-Bono-Report-Final-Sept-2013.pdf>>

122 Kalico Consulting, above n123, 47

123 Interview participant 15

124 Coumarelos et. al. Legal Australia-Wide Survey, *Legal Need in Australia, Law and Justice Foundation* (LAW survey)

125 Monica Taylor and Clare Cappa, 'Student pro bono and its role in contemporary Australian law schools' [2016] 41 *Alternative Law Journal* 121.

126 Francina Cantatore, 'Boosting law graduate employability: Using a pro bono teaching clinic to facilitate experiential learning in commercial law subjects' [2015] 25 *Legal Education Review* 147, 147

127 Ernst and Young, 'SA Community Legal Centres Service Review Project, Final Report' (January 2016) accessed at: <https://www.agd.sa.gov.au/projects-and-consultations/new-community-legal-service-model/review-community-legal-services>

128 Department of Justice and Regulation (Vic), 'Access to Justice Review' [2016] <<https://engage.vic.gov.au/accesstojustice>>, 445

129 Interview participant 1



use students for work capacity, based in clinics run at CLCs, and supervised by private law firms.¹³⁰ This would boost the eco-system's capacity to deliver services, whilst at the same time, meeting the needs of the different stakeholders. There was interest from firms when this idea was raised in interviews, with some comparisons to the medical profession where students must complete a rigorous qualification process which has them engaging with front-line health care all the way through. The question arises - why should law be any different?

Whatever the eco-system of legal support for vulnerable and disadvantaged people looks like, it is important to consider the role of different providers. This is not to say that firms and law schools do not currently play an important role. The contribution of firms has been highlighted several times throughout this paper. The Law Schools across Western Australia all have practical legal clinics that, overall, already make some contribution to legal support for vulnerable and disadvantaged people across WA. Firms and law schools clearly play a critical role alongside community legal centres and other providers. However, the strategy of their core work in relation to the eco-system; the **connection** of their roles to other roles across the eco-system, and to meeting areas of greatest need, could use some strategic attention.

¹³⁰ Interview participant 1

What lessons can we learn from other sectors?

Pro bono engineering involves engineering services being provided in kind, or at a significantly reduced rate, by companies to communities or community partners in need of those services.¹³¹ Engineering companies do engage in pro bono partnerships and projects, but largely on an ad hoc basis, and there has (until recently) been no framework or supporting infrastructure for companies who are interested in broadening their corporate social responsibility (CSR) portfolio.¹³² Interestingly, the way in which the engineering sector is described to be thinking about pro bono is juxtaposed against the premise of this paper. Effectively, engineers have been acknowledging that they have engaged in CSR style activities, including providing sponsorship and volunteering, and are now coming to consider how to use their skills for good.¹³³

The pro bono work that a financial advisory firm interviewed for this paper engages in is focussed on areas where NFPs may not have the skillset or human capital, particularly in audit, advisory and tax.¹³⁴ Like the legal firms, this firm has four key priority areas – indigenous Australians, climate change, mental health and skills for the future¹³⁵ – and they focus their pro bono and CSR priorities around partnerships with organisations that are working in these key areas.

Their non-professional (or non-client facing) staff do not play a significant role in pro bono arrangements. The firm provides some IT and marketing support (as an example) but largely, like the law firms, the client-facing teams do the pro bono work. Those staff are so fully utilised in terms of internal work that it is difficult to release them for additional engagements, and that as with all employees, the firm encourages them to be involved in the volunteering and fundraising for their community partners.¹³⁶

Another firm does support a number of CLCs through providing equipment, similarly to other firm's practices, they prefer to develop holistic partnerships with a few key organisations. They have four major community partners at the moment, and each of those partnerships is specific and tailored to what the NFP needs, and to what the firm can learn from them.¹³⁷ For example, one of their community partners are housed within their office and use a lot of their administrative and office support;¹³⁸ but the firm does not provide office space for all of their partners. The perspective of this firm's Managing Director (MD) is that relationships with NFP partners should never be a cookie cutter approach. The MD is a proponent of discussions between potential partners that establish the needs of each party to ensure everyone has their needs met.¹³⁹

131 Sarah Purcell and Sunny Oliver-Bennetts 'Snapshot of Pro Bono Engineering' Engineers Australia, November 2011, p 6.

132 Ibid, 6.

133 Ibid, 15.

134 Interview participant 18.

135 Interview participant 18.

136 Interview participant 18.

137 Interview participant 11.

138 Interview participant 11.

139 Interview participant 11.

Conclusion

The pro bono support received by CLCs across WA is considerable, and this paper has captured only a proportion of it. This research sought to explore opportunities for support from firms, legal and non-legal that is not typically provided. Anything **outside** of involvement in direct service delivery, provision of advice by specialist lawyers, and provision of legal advice to the centre was in scope. The perspective of the Association leading into this work was that pro bono is an important component of the community legal sector; however the contribution could be enhanced through a broader understanding of the range of support that could be provided.

This research has reinforced that understanding, and deepened it. CLCs have some crucial areas where, from a sustainability perspective, they could really use some support. Though there are many other areas that would add value, key areas of interest are in IT, HR and office space. Overall, firms are receptive and open to providing different forms of support, and there are examples in some jurisdictions. However, there are barriers that need to be acknowledged. The message from firms is that a partnership starts with pro bono given these are their specialist skills, and there is a professional and moral obligation to provide these skills for people experiencing vulnerability and disadvantage to ensure access to justice. 'Wrap-around support', especially financial contributions, should then be considered in the context of a strong relationship with a CLC, but they are certainly open to it.

This is where a broader lens of shared value adds value. Relationships need to be created and fostered by both parties, coming to the partnership with a clear understanding of respective strengths and contributions. Both CLCs and firms acknowledged that this is an area where they could both improve.

Further work

This research provides a firm grounding for the CLCA to use in engaging with CLCs and with firms about different forms of support for the sector. However, there is some support which CLCs that do not have relationships with firms would find useful. There is a valuable role for the CLCA in assisting members to form relationships through, for example, organising a form of speed dating so firms and CLCs can meet one another.¹⁴⁰ Some additional support may also be appropriate to help CLCs truly understand and articulate their value, and to encourage them to undertake sufficient research to find a good fit with a firm before approaching them.

Another area worthy of attention is possible WA procurement incentives. As described, a number of jurisdictions nationally now include pro bono requirements in their tender arrangements for legal services, and this strategy has been successful in increasing the pro bono contribution made by law firms. It may be worthwhile exploring a similar strategy in WA.

¹⁴⁰ Interview participant 13.

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