

MinterEllison.

27 October 2023

Dr Warren Mundy
Independent Reviewer
National Legal Assistance Partnership

Dear Dr Mundy

MinterEllison is grateful for your public invitation for submissions to the Independent Review of the National Legal Assistance Partnership 2020-2025 (**NLAP Review**).

We would like to acknowledge the Australian Pro Bono Centre (**APBC**) for its submission to and extensive consultation with the independent review. The APBC submission provides important insights representing the perspective of the pro bono sector more broadly. In particular, we would like to emphasise our endorsement of the view that pro bono ought not be seen as a substitute for a properly funded legal assistance sector.

While recognising this, MinterEllison is proud to contribute to the legal assistance sector through, as framed by the Australian Pro Bono Centre, assisting to add additional capacity to it and providing a level of elasticity and contingency.

In FY23, MinterEllison contributed 63,000 hours of pro bono legal services to individuals and community organisations through our Pro Bono & Community Investment Program. We are committed to addressing unmet community legal need, including through a focus on four strategic pillars:

- human rights and access to justice;
- homelessness, including domestic and family violence;
- empowering youth; and
- First Nations empowerment.

Based on our significant experience in the pro bono sector, we wish to make two brief observations in this submission to complement the submissions made by APBC.

Pro bono is most effective when there is reliable legal assistance sector funding

In our experience, pro bono legal assistance is most effective when the relevant community legal centre (**CLC**) and its programs have reliable and certain funding. This allows us to effectively amplify and benefit from the CLC's specialised expertise and on-the-ground knowledge. We have outlined some examples which illustrate this.

Firstly, [pro bono referral schemes](#) managed by CLCs play a crucial role in enabling the pro bono sector to address unmet legal need. For MinterEllison to offer pro bono support to individuals and organisations via these referral schemes, the respective CLCs responsible for identifying suitable opportunities and administering the schemes must have adequate resources. Conversely, we have observed situations where the funding for CLCs overseeing these schemes in various states has been uncertain or inconsistent. This has negatively impacted their capacity to effectively refer matters to us through the scheme and, consequently, hindered our ability to provide pro bono assistance to address unmet legal need.

Secondly, outside of pro bono referral schemes, we have experienced multiple situations in which we have the desire to provide new opportunities for the extensive numbers of trained lawyers at MinterEllison

Level 40 Governor Macquarie Tower 1 Farrer Place Sydney
GPO Box 521 Sydney NSW 2001 Australia DX 117 Sydney
T +61 2 9921 8888 F +61 2 9921 8123 minterellison.com

to provide pro bono assistance in areas of need but the relevant CLC does not have sufficient resourcing to establish a new initiative or to provide the necessary supervision based on their specialised expertise in a particular area of law and/or with the particular client demographic. Without sufficient supervision, our firm cannot participate in the relevant clinic or program, meaning available resources cannot be maximised to meet unmet legal need in the community.

Case study: Domestic violence pro bono assistance

Like many commercial law firms providing pro bono legal services in Australia, MinterEllison does not have legal expertise in the areas of family law or most areas of domestic violence law. At the same time, there is a significant unmet legal need for people facing domestic and family violence in the community in these areas.

In our view, this combination is likely a primary reason that, as noted in APBC's submission, two of the top five most rejected areas of law by firms with respect to pro bono requests for individual matters are domestic and family violence law and family law.

Given that MinterEllison does not have expertise in these areas of law, we cannot provide pro bono legal services to assist to meet this unmet legal need unless we can effectively partner with an organisation from the legal assistance sector that has this expertise. In our experience, community legal centres that specialise in family law and domestic violence law are presently too under-resourced to enable us to partner with them to develop innovative programs that allow us to utilise our full pro bono support potential to target this unmet legal need.

Thirdly, we have experienced situations where the impact of a specific and otherwise highly effective pro bono program is limited because the CLC with which we are partnering has an uncertain end date for the required funding for that program and/or the funding for the program is extremely short-term. Particularly in circumstances where funding towards establishing a specialised CLC program is not renewed, we see the disappointing result of trained pro bono lawyers prevented from further assisting vulnerable cohorts in need of legal assistance.

Case study: Refugee and Immigration Legal Service Afghan clinic

In late 2021, we began to assist the Refugee and Immigration Legal Service (**RAILS**) to meet immigration legal need that resulted from Afghanistan falling to the Taliban.

In 2022, we assisted RAILS with a further iteration of a pro bono legal clinic to respond to this need. Through this clinic, we provided pro bono assistance to support RAILS to complete humanitarian visa applications for family members of Afghani permanent residents or citizens based in Queensland who were still at grave risk in Afghanistan. Our pro bono investment into this clinic included providing a secondee lawyer to assist RAILS to set up a new and sustainable clinic model, and utilising lawyers across our Brisbane, Sydney and Melbourne offices to provide pro bono assistance in relation to approximately 45 individuals files, ultimately supervised by RAILS.

Due to uncertainty of the funding end date during the course of this clinic, the expected end date for the clinic itself was extended several times and there were several changes in relation to the RAILS lawyers who were supervising this work. This at times hindered the effectiveness of our pro bono assistance.

Further, the ongoing impact from the initial level of pro bono support we provided to establish this clinic has been hindered, given that RAILS has been unable to secure further funding for the clinic to continue.

Finally, in our experience, insufficient legal assistance sector funding can result in CLCs having fewer opportunities to build partnerships with the pro bono sector. For example, we have observed that staff from CLCs at times have limited capacity to attend networking events and conferences, attend in-person meetings and utilise software (like sophisticated customer relationship management software) that supports online partnership building. In our view, it is essential for CLCs to receiving funding towards these areas in order to maximising the capacity of the pro bono sector.

Rural, regional and remote

APBC's submission to the NLAP Review notes that the pro bono sector has found it difficult to service regional, rural and remote (RRR) clients and that part of the reason for this is that most signatories to the national pro bono target are located in capital cities.

Consistent with this, MinterEllison has attempted to and is continuing to bolster its efforts to expand our pro bono services to regional, rural and remote clients. However, related to the first observation made in this submission, given our distance from many RRR clients and the unique challenges they face, and the need to build trustful relationships with these clients on-the-ground in order to provide impactful assistance, it is difficult for us to channel our resources to provide effective pro bono assistance to clients in RRR areas without CLCs operating on-the-ground in those areas to be sufficiently funded to partner with us to do so.

We also know that many of our individual pro bono clients face intersecting legal and non-legal issues. Our experience is that pro bono legal support to these clients is most effective when its delivered alongside social support services, such as housing, counselling, alcohol and other drug, health and financial support services. Individuals in RRR locations have less access to these support services. Our view is that pro bono legal support for individuals in RRR locations is most impactful when our CLC partner is properly funded to provide these services, either through funded social support positions, or otherwise.

Case study: Supporting LawRight to assist clients in Cairns

For example, in 2022, we were able to work alongside a Queensland-based community legal centre, LawRight, through their Community and Health Justice Partnerships program, to provide pro bono assistance to vulnerable clients based in Cairns and surrounds. During this time, LawRight had a solicitor based in Cairns who was co-located in a homelessness hub.

We were able to assist Cairns-based clients with matters that were sourced as a result of the LawRight solicitor's on-the-ground knowledge, the relationships he formed with clients in person, and his relationships with relevant service providers in Cairns who could in turn refer matters to LawRight. As well as facilitating access to clients, the LawRight solicitor directly supervised our work and assisted with ongoing client communications.

Through this collaboration, we supported LawRight to achieve several impactful outcomes for these clients, including successfully advocating for waivers of thousands of dollars of debts for clients on the grounds of irresponsible lending and successfully challenging unlawful evictions. Further, the co-location with the homelessness hub enabled clients who we assisted with legal matters to also access financial support to maximise the impact of the legal outcomes that we supported LawRight to achieve. For example, in some instances where we successfully challenged unlawful evictions, clients were also able to access a grant from the homelessness hub to remedy outstanding rental arrears – the combination of which enabled the client to remain in the tenancy and prevented the risk of the property manager immediately initiating a new eviction process on the basis of unpaid rent.

For approximately 8 months in 2023, LawRight no longer had a solicitor based on Cairns. As a result, our link with these clients was lost and we were unable to assist any new clients from Cairns in 2023 through this collaboration with LawRight or otherwise.

Yours faithfully

MinterEllison



Keith Rovers
Partner

Contact: Keith Rovers
Keith.rovers@minterellison.com T: +61 9921 4681