

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN GOVERNMENT SOLICITOR

Question No. 22

Senator Pratt asked the following question at the hearing on 25 May 2011:

Senator PRATT: Could you outline briefly what the approach to pro bono is in terms of the kinds of clients AGS is prepared to support?

Mr Govey: It might be better if I took that on notice, if I could, and give you a more prepared response. We could, if you are interested, give a more comprehensive range of the sorts of projects that we are involved in. But they are very broad ranging. Everything from secondments to organisations such as the public interest law clearing houses in a couple of jurisdictions and community legal centres and so on.

The answer to the honourable senator's question is as follows:

The types of pro bono work that AGS undertakes are within the definition of 'pro bono work' in the *Legal Services Directions 2005* (as amended). AGS has an internal pro bono policy that sets out the considerations that AGS takes into account in taking on pro bono clients or projects. These considerations are:

- all pro bono projects that AGS undertakes must be within AGS's power to act under its enabling legislation, the *Judiciary Act 1903*
- pro bono matters must not give rise to a conflict of interest risk that AGS cannot adequately manage, both to its satisfaction and the satisfaction of any relevant Commonwealth department or agency for whom AGS would wish normally to act or which would normally expect AGS to be available to act
- AGS's pro bono work must reflect well on AGS and on the domestic and international reputation of the Australian Government.

These restrictions mean in practice that AGS does not undertake pro bono work in any matter against a Commonwealth agency or where there is an unacceptable potential for conflict of interest for government clients. Also, AGS will not in the ordinary course undertake pro bono matters for an individual. Nor will it provide pro bono assistance to non-profit organisations with a political or campaigning objective.

The focus of AGS's pro bono program is on enhancing access to justice for disadvantaged people and disadvantaged communities, and capacity building in Asia-Pacific countries. AGS's approach is to work closely with its government clients and the community sector to identify projects that harmonise with AGS's character as a government-owned legal services business serving the interests of the Commonwealth.

The main areas of AGS pro bono work are:

- a. undertaking legal matters for non-profit organisations in areas of law which are unlikely to give rise to disputes between AGS's pro bono clients and Commonwealth government departments and agencies, such as commercial and employment law
- b. legal training for community legal centres or other non-profit organisations

- c. full or part-time secondments to pro bono legal clearing houses, community legal centres that work primarily in areas of Commonwealth law, or other non-profit organisations
- d. international pro bono projects involving the provision of legal advice, assistance or training to overseas organisations or governments.

Examples of AGS's pro bono activities during 2009-10 are given at pages 59-60 of AGS's 2009-10 annual report (relevant extract attached). More recent pro bono work undertaken by AGS includes:

- working in partnership with the Registrar of Indigenous Corporations to establish LawHelp, a pro bono referral scheme to enable not-for-profit indigenous corporations registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* to access pro bono legal services, and providing legal services directly to a number of indigenous corporations through LawHelp
- collaborating with the Registrar of Indigenous Corporations to develop a series of templates and guides aimed at assisting indigenous corporations to better manage their obligations as employers
- establishing a free credit and debt legal service one day a fortnight in Darwin, in partnership with the Darwin Community Legal Service
- developing and delivering training to staff and volunteers of community legal centres in relation to changes in consumer law, working in conjunction with the ACCC, ASIC and the NSW Office of Fair Trading
- providing advice to the International Union for the Conservation of Nature and Natural Resources (IUCN) on a draft Environment Management Bill for Nauru.

AGS PRO BONO LEGAL WORK 2009-10
EXTRACT FROM AGS ANNUAL REPORT 2009-10 (PAGES 59-60)

PRO BONO LEGAL WORK

As a government-owned business and statutory authority, AGS can only undertake pro bono work that involves acting for a person or body for whom AGS can act in accordance with its functions and powers as provided for under its enabling legislation, the *Judiciary Act 1903*. AGS does not undertake pro bono work in any matter against a Commonwealth agency or where there is an unacceptable potential for conflict of interest for government clients.

AGS signed up to the National Pro Bono Resource Centre's aspirational target in November 2008. The aspirational target encourages firms to achieve an average of at least 35 hours of pro bono legal work per lawyer per year. This reporting year was AGS's first full year as a signatory to the target and AGS's tally for the year of over 5,200 hours of pro bono legal work (over 16 hours on average for every AGS lawyer) reflects our increased commitment to the program. Our 2009–10 pro bono effort more than tripled the amount of pro bono legal work per lawyer we undertook compared with 2008–09.

Working with community legal centres and pro bono clearing houses

A key focus for AGS's pro bono program is to enhance access to justice for disadvantaged people and disadvantaged communities. In 2009–10 AGS provided lawyers on secondment to pro bono legal clearing houses and community legal centres across Australia. Organisations that AGS worked with included the Public Interest Law Clearing House (PILCH) Victoria, PILCH NSW, the Arts Law Centre of Australia, JusticeNet SA, the Employment Law Centre of WA and the ACT Pro Bono Clearing House.

In addition AGS assisted with the establishment and launch of Street Law, a new outreach service in the ACT for people who are homeless or at risk of becoming homeless. The Commonwealth Attorney-General and the ACT Attorney General launched Street Law in July 2010. AGS supports the program on an ongoing basis by providing graduate lawyers to work with the service each week through a number of community-based centres across the ACT.

Capacity building work in the Asia–Pacific region

Through its pro bono program, AGS is using its expertise as a government legal service provider to support public sector lawyers in neighbouring countries.

In April 2010 AGS ran a series of training sessions in Port Moresby for Papua New Guinea government lawyers, to improve their skills in statutory interpretation and advice writing. Over 4 days of training, AGS trained 159 participants. Feedback on the training was overwhelmingly positive.

During the year AGS also hosted a study tour by Papua New Guinea Solicitor General and members of his office during which AGS's senior managers shared their experience of managing a modern government legal practice.

AGS provides pro bono support for several of our government clients' international initiatives. In 2009–10 we again supported the Australia–China Legal Profession Development Program, an initiative of the Attorney-General's Department and the Law Council of Australia, and at the request of the Commonwealth Ombudsman began working with the Pacific Ombudsman Alliance. We offer our conference facilities in Sydney for meetings of the Attorney-General's International Pro Bono Advisory Group, on which we are represented.

Legal work for not-for-profit organisations

AGS offers a limited range of pro bono legal services to not-for-profit organisations in areas that are consistent with our role as the leading lawyers to government. During the year we helped organisations such as the Spinal Cord Injuries Association and the Alcohol and Drug Foundation of the ACT to resolve legal issues.