

## Pro Bono and Corporate Social Responsibility

*Reputation building, recruitment, retention and client relationships*

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Corporate Social Responsibility (“CSR”) is on the agenda of most significant businesses worldwide. Increasingly law firms are recognizing the role that CSR plays in reputation building, recruitment and retention, and client relationships. Clients, both government and commercial, are asking formal questions about a firm’s CSR program. Specialist consultants now exist to advise firms on the development and management of their CSR program. It has become an area of specialisation and differentiation. Two important questions to ask in this context are: where does a firm’s pro bono legal program fit into all of this and what are the differing approaches amongst Australian firms?

The core activities and policies that are commonly gathered under the CSR umbrella are said to be community and education, charities and sponsorship, environmental management, diversity and workplace culture, employee learning and development, behavioural ethics and ... pro bono<sup>1</sup>.

However, some firms intentionally differentiate between pro bono and CSR based on their different rationales and a concern that CSR may dilute a firm’s commitment to pro bono. The rationale for lawyers doing pro bono legal work is that each lawyer has an ethical professional responsibility to assist those who would not otherwise be able to access justice. A law firm’s pro bono program facilitates its lawyers to do this work in an efficient and strategic way. CSR, on the other hand, is about the responsibility of the entity to society, a corporate, rather than individual professional, aspiration.

For Allens<sup>2</sup>, Ashurst, Clayton Utz, DLA Piper, Gilbert + Tobin and Herbert Smith Freehills, pro bono is managed separately to their CSR programs, although links exist between the two.

Nic Patrick, Global Head of Pro Bono and Corporate Responsibility at **DLA Piper** characterised the relationship between the two as follows: “A sophisticated approach to CR for any law firm would usually lead a firm towards pro bono work as a core element of its community commitment. Whether motivated by a sense of corporate social responsibility or a sense of professional responsibility, pro bono must be at the centre of a law firm's community investment strategy.”<sup>3</sup>

**Ashurst** states: “The firm's pro bono programme is at the core of our contribution to the community because as legal practitioners we have a responsibility to improve access to justice for all members of society. In addition to our firm's pro bono work we have active charities and volunteering committees and a number of important community partnerships which are supported both through donations and volunteering.”<sup>4</sup>

Similarly, **Herbert Smith Freehills**, under its new global Pro Bono and Citizenship program, comments that “the core of our approach is a long-standing and proud tradition of providing pro

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<sup>1</sup> See <http://www.arkgroupaustralia.com.au/reports-csrlegal.htm>

<sup>2</sup> Allens is transitioning to a combined program.

<sup>3</sup> [http://www.dlapiperprobono.com/blog/pro-bono/2013/cr\\_or\\_pro\\_bono.html](http://www.dlapiperprobono.com/blog/pro-bono/2013/cr_or_pro_bono.html)

<sup>4</sup> [https://www.ashurst.com/about-ashurst.aspx?id\\_Content=2642](https://www.ashurst.com/about-ashurst.aspx?id_Content=2642)

bono legal services and advocacy. This commitment to pro bono legal services for members of the public has developed into a broader program of volunteering and charitable giving that involves a much wider range of people from across this firm.” This comment indicates a clear primacy for the firm’s pro bono program in the context of the firm’s community engagement activities.

**Clayton Utz** has separately managed Pro Bono and Social Responsibility programs. They state, “we understand that we are part of the wider Australian community and legal profession, and we have set serious goals to address disadvantage and support access to justice. We are leaders in pro bono practice, which is a fundamental part of being a lawyer at Clayton Utz.”<sup>5</sup>

**Gilbert + Tobin**, a pioneer of law firm pro bono in Australia, has its pro bono program separately managed from its CSR program. They state “we are a proud proponent of social justice for everyone, and focus on providing advice and support to marginalised and disadvantaged individuals and the organisations representing them.”<sup>6</sup> One of the aims of their CSR program is to work to ensure the justice system is accessible to everyone.

**Allens** have four key committees managing its programs, Pro Bono (and community programs), Charity, Reconciliation and Footprint, with pro bono being by far the largest program. Each of these is managed and coordinated nationally but they have recently established a ‘community engagement board’ to oversee all of these committees. Key to the way they work is their focus on particular organisations they support and the causes they champion, whether that be human rights, asylum seekers, alleviating disadvantage or promoting Reconciliation, or the environment.

Other firms, noted below, have chosen a broader CSR program for their community engagement focus.

**Baker & McKenzie** indicate that they seek to make an impact through the three pillars of their global CSR program: pro bono and community, diversity and inclusion and sustainability.<sup>7</sup>

**King & Wood Mallesons** state “with Corporate Responsibility at the heart of our firm, we do business, better”<sup>8</sup> and “the King & Wood Mallesons in the Community program provides a way of directing [our] ongoing pro bono, charitable, and community work to meet the common values and goals of our staff.”<sup>9</sup>

A smaller firm, such as **Curwoods**, has a Corporate Social Responsibility (CSR) Committee – comprising a cross-section of partners and staff “that ensures that our environmental footprint is sound, and our community is supported. The committee [investigates] pro bono initiatives, community assistance, charity sponsorship and environmental issues.”<sup>10</sup>

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<sup>5</sup> <http://www.claytonutz.com/community/home.page>

<sup>6</sup> <http://www.gtlaw.com.au/community/pro-bono/>

<sup>7</sup> <http://www.bakermckenzie.com/globalcsr/>

<sup>8</sup> <http://www.kwm.com/en/about-us/corporate-responsibility>

<sup>9</sup> <http://www.kwm.com/en/au/about-us/corporate-responsibility>

<sup>10</sup> <http://www.curwoods.com.au/about-us/csr>

## **Common and complementary goals**

Regardless of the differing approaches, the most effective firms are leveraging value from finding common and complementary features of their CSR and pro bono programs. For example, for over 10 years Allens has funded the Indigenous Justice Program at PIAC whilst focussing its pro bono program on alleviating disadvantage in Aboriginal communities. As an example of a complementary approach, Clayton Utz has provided both pro bono support and Clayton Utz Foundation funding since 2011 to support the growth of the Health Justice Partnerships (HJPs) movement, including awarding a Fellowship to investigate HJPs in the US, and three year funding to a long-standing community legal centre partner to run an HJP in Bendigo. The firm recently chose to mark reaching half a million pro bono hours by announcing that the Pro Bono practice and the Foundation will establish an Australian Centre for HJPs.

Firms who have focussed their CSR and pro bono programs on specific areas of need have created a framework to integrate their pro bono legal work with other community and philanthropic support programs. For example, Reconciliation Action Plans at Allens, Ashurst, Gilbert +Tobin and Herbert Smith Freehills have provided a context for these firms to combine pro bono legal work with educational work, provide employment opportunities, policy and law reform advocacy, to support enterprise through supplier diversity and procurement, and to provide a broad range of business support activities for emerging Indigenous enterprises.

These examples show that planning and implementing a community investment program that is able to draw on the common goals of the firm's CSR and pro bono programs, or make sure they complement each other, make it more likely that strategic goals will be achieved.

## **Conclusion**

One global law firm says "organisations that fail to participate in the responsibility revolution face becoming obsolete."<sup>11</sup> A law firm's core competence is legal advice and so a pro bono legal program should be at the core of a firm's community engagement strategy. This is the service that lawyers are uniquely positioned to provide.

The key corporate or community responsibility of a firm is to help its lawyers fulfil their ethical obligation to do pro bono legal work. A structured and strategic approach to pro bono can then be extended to a firm's broader community engagement program and strengthened through common and complementary goals.

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<sup>11</sup> Lisa Kellar Glanakos, Director of Knowledge Management, Reed Smith LLP, Washington DC at <https://info.legalsolutions.thomsonreuters.com/signup/newsletters/practice-innovations/2011-jan/article4.aspx>