

2<sup>nd</sup> May 2023

**The Chief Executive Officer**  
Law Society of South Australia  
178 North Terrace  
Adelaide 5000 SA

By email: [Diana.Newcombe@lawsocietysa.asn.au](mailto:Diana.Newcombe@lawsocietysa.asn.au)

## **SUBMISSION ON PRO BONO LEGAL SERVICES - IN-HOUSE COUNSEL**

Dear Ms Newcombe

I am writing to you as the President of the South Australian Division of the Association of Corporate Counsel (ACC) Australia, and supported by the National Division of the ACC, including its Pro Bono special interest group.

I am making this submission on behalf of in-house lawyers in South Australia recommending changes to allow in-house lawyers holding a 'Category C' practising certificate to engage and participate in pro bono legal work to assist organisations and individuals who would otherwise be without legal assistance.

### **Background to ACC Australia**

ACC Australia is part of a global network of more than 42,000 in-house counsel employed by over 10,000 organisations in more than 85 countries. ACC Australia is proud to represent the interests of approximately 3,500 Australian in-house lawyers working for corporations and government. ACC Australia currently represents a large proportion of in-house lawyers in South Australia, with national membership growing each year. In Australia, in-house lawyers constitute approximately 30% of the total Australian legal profession, making our role as the 'voice of in-house lawyers' a vital one for the furthering and advancement of the profession.

ACC Australia considers pro bono work as important and as such, has a national Pro bono special interest group to facilitate the involvement of members in pro bono work, and to assist in removing the barriers to participation. The overall aim of the Committee is to help foster a more equitable and sustainable society through tapping into the important contribution that can be made by in-house lawyers to the broader community.

### **Australian Pro Bono Centre**

The Australian Pro Bono Centre is the national centre of leadership for pro bono legal services. It launched the National Pro Bono Target for private practitioners on 26 April 2007. Key aims of introducing the Target were to raise the profile of a lawyer's professional responsibility to enhance access to justice for those who would not otherwise have access to legal assistance, to highlight the shared nature of that responsibility across the legal profession, and to provide a benchmark for the conduct of pro bono work.

In recognition of the contribution that in-house lawyers can make to pro bono, the Australian Pro Bono Centre opened the Target on 1 July 2020 to in-house lawyers.

### **The Issue**

In-house lawyers in South Australia generally hold a 'Category C' Practising Certificate. Our concern is that 'Category C' practising certificates do not allow for the majority of South Australian in-house lawyers to provide any advice beyond their employer or established community legal centres. This is at odds with other jurisdictions where practitioners are permitted to engage in pro bono legal practice if done through a pro bono project "approved

by the Australian Pro Bono Centre (ACN 102 444 557)” (ie in Queensland) or “otherwise on a pro bono basis”, as defined in sections 6 and 8 of the Legal Professional Uniform Law (Vic, NSW, WA).

We would welcome a scheme where in-house lawyers are able to more actively participate in pro bono work:

- (a) where they are automatically authorised to engage in pro bono work under their existing practising certificates;  
or
- (b) through application to the Law Society granted authorisation to engage in pro-bono work under their existing practising certificates; or
- (c) where they are permitted to act as a volunteer on pro bono project approved by the Australian Pro Bono Centre.

Lawyers are in the privileged position of being the only ones who can practice law. In-house counsel generally have a broad range of expertise across a number of different commercial areas whereas commercial lawyers in law firms generally specialise in a particular specific commercial area of the law. With their general commercial legal expertise across various areas of the law, in-house lawyers are well placed to provide much needed pro-bono legal services to those who may not otherwise be able to afford legal services.

There is a strong desire within the South Australian in-house legal community to better engage in volunteer legal services, as in-house lawyers do in other jurisdictions. In addition to responding to their professional obligation, in-house lawyers within companies want to use their legal skills to contribute to their communities on a pro bono basis. This is because they see the personal and business benefits of doing so – greater sense of purpose in their work, increased ability to attract and retain staff, skill development, and opportunities for connection-building with the wider community. It also provides a larger pool of lawyers available to assist those people in our community needing help.

We believe that this issue may deter junior lawyers from working in-house and limits future opportunities for those lawyers. From a policy perspective, this limitation impacts the ability of in-house lawyers to be engaged in altruistic endeavours.

We encourage the Law Society of South Australia to engage with ACC Australia to discuss any potential solutions or to clarify how this issue could be addressed to better reflect the position in other states and territories.

Please contact Chris Drummer, Director, Policy & CLO Engagement, ACC Australia and Asia Pacific [c.drummer@acc.com](mailto:c.drummer@acc.com) or 0411264734 at first instance should you have any questions.

Kind regards,



Damien Harby  
President, South Australia Division  
Association of Corporate Counsel Australia

---

**Headquarters**  
1001 G Street, NW, Suite 300W  
Washington, DC 20001 USA  
tel +1 202.293.4103  
[www.acc.com](http://www.acc.com)

**Brussels Office**  
Rue de la Science 14b,  
1040 Brussels, Belgium  
tel +32.488.467.288

**Charleston Office**  
c/o Womble Bond Dickinson  
5 Exchange Street  
Charleston, SC 29401  
tel +1 202.285.4183

**Hong Kong Office**  
Suite One and Two,  
23/F The Wah Hing Building,  
283 Lockhart Road, Hong Kong  
tel +852.9686.5089

**Melbourne Office**  
P.O. Box 422  
Collins Street West  
Melbourne, VIC 8007  
tel +61.3.9248.5500