

INFORMATION FOR CORPORATE MEMBERS OF JUSTICENET SA

1. Functions of JusticeNet

JusticeNet SA is an independent not-for-profit organisation that facilitates access to justice in South Australia. JusticeNet operates a referral scheme that provides a 'safety net' for those in need of legal advice.

Through its referral scheme JusticeNet first seeks to link clients in need of legal assistance with any existing services which may be able to assist them, such as Community Legal Centres, the Legal Services Commission or private solicitors acting on a legal aid basis.

If no appropriate services are available, the eligible clients will be referred to member solicitors and barristers willing to act on a pro bono basis.

JusticeNet assesses applications for assistance against standard eligibility criteria. The detailed criteria and guidelines are designed to ensure that clients are only referred for pro bono assistance if they have meritorious matters, are unable to obtain assistance from any existing legal service and genuinely cannot afford to pay a lawyer.

JusticeNet itself will not generally provide legal services. A client, once referred, will become the client of the assisting firm or organisation.

JusticeNet also aims to support firms and organisations with the development of their pro bono practices and develop other projects to complement the referral service. It is also envisaged that the JusticeNet may develop a policy advocacy and law reform role.

2. The Role of Member Firms and Organisations

Interested firms and organisations are invited to become corporate members of JusticeNet SA, the incorporated association established to operate the referral service.

Members will be invited to nominate areas of law in which they are willing to accept referrals. While it is hoped that they will be able to assist in a range of legal areas, members will not be expected to take on matters in areas in which they are not comfortable to practise. Members are welcome at any time to add or remove areas of law in which they are willing to consider referrals.

Each time JusticeNet approves an application for pro bono assistance, it will contact members which have indicated they are willing to consider referrals of that kind. The member may elect to accept or decline the referral. Members retain a right of veto to any referral request made to it by JusticeNet.

While it is hoped that members will be able to accept most referrals, we acknowledge that conflicts and workloads may prevent particular referrals from being accepted from time to time.

3. Types of Matters

Based on our experience to date, the two largest areas of demand are:

- a. Advice and representation in areas of civil law; and

- b. Transactional and advisory work for non-profit community organisations, such as employment advice, drafting constitutions, tax and charitable status advice, and so on.

There are likely to also be requests from time to time in the areas of criminal, family and other miscellaneous areas of law.

There may also be demand for non-legal assistance from community organisations and Community Legal Centres, such as photocopying, catering, meeting rooms, fundraising and so on. Importantly, this will provide opportunities for both legal and non-legal staff to be involved the project.

Once a matter is finalised we ask that firms complete our matter closure form that records the hours spent and notional cost of legal fees incurred by the firm on the pro bono matter.

4. Benefits of JusticeNet Membership

- a. Practical demonstration of the ethics and CSR values of your firm;
- b. Enhanced reputation and profile;
- c. Recognition on JusticeNet's website and marketing material;
- d. More effective delivery of pro bono services (rather than on an ad hoc basis), as they will only receive meritorious, carefully scoped requests for assistance in areas in which they are prepared to practise;
- e. Saving time and resources which may be currently devoted to assessing requests for pro bono assistance;
- f. Firms can promote their involvement in JusticeNet in their own materials and as part of tender submissions (increasingly Government and many private tender submissions now seek information as to tenderer's Corporate Social Responsibility policies and activities);
- g. Increased staff satisfaction, retention and morale (young lawyers are increasingly looking for opportunities to contribute in this way and factor this in to their employment decision making);
- h. Opportunities for broader professional experience for legal staff;
- i. Opportunities for law students to do pro bono placements at your firm to assist in pro bono matters (and therefore to assess for future employment);
- j. Access to publications and bulletins from JusticeNet;
- k. Count the JusticeNet pro bono hours towards wider pro bono targets / CSR delivery;
- l. Low cost;
- m. Potential tax deductibility.

5. Retainer and Fee Arrangements

Referred clients will become the clients of the member providing assistance and subject to the member's usual retainer arrangements save that no professional fees are charged. However, we encourage members to include a costs clause in their written pro bono retainer agreement that entitles them to charge costs in the event of a successful outcome in a litigious matter. Importantly, the clause should be drafted so as to limit the client's liability to the amount taxed under a costs order. (In our view, referrals in these circumstances retain their 'pro bono' character because the client is not required to pay for the legal services provided.)

An appropriate costs clause might read:

"The firm will not charge for its services, save that in the event that the work that the work is litigious and the work is successful, the firm shall be entitled to charge costs to the client calculated on a party/party basis under [nominate the applicable court scale]. If a costs order is obtained by the client in the proceedings, the solicitor shall tax that costs order and shall accept as full costs the amount taxed under that order and will take no proceedings against the client to recover costs until that order has been taxed."

Costs don't have to be limited to party/party costs, so long as it is clear that the firm will accept as full costs the amount taxed under a costs order (in the event that the member gets a costs order on an indemnity basis).

JusticeNet encourages member firms to donate some or all of the costs they recover in a pro bono matter to JusticeNet, so as to assist with the continued operation of our referral scheme and other projects. We are happy to discuss alternative arrangements for handling costs on a case-by-case basis, such as when a member accepts the referral of a complex or large-scale litigious matter that may involve significant demands on a firm's resources.

It is hoped that internal disbursements such as telephone and photocopying will not be charged.

JusticeNet will attempt to arrange pro bono counsel in matters requiring counsel involvement. Otherwise external disbursements are the responsibility of the client although members are encouraged to consider meeting the cost of external disbursements where possible. If sufficient funds can be raised, JusticeNet aims in future to establish a Disbursements Funds which may cover some external disbursements. The Law Society's disbursements only fund may also assist in certain cases.

6. Insurance and practicing certificate issues

Clients referred by JusticeNet to a member firm become a client of the member firm. The assisting solicitor will therefore be covered under the firm's professional indemnity insurance.

The situation may be different for corporate legal departments. In-house lawyers may not have professional indemnity insurance that would cover them acting for pro bono clients. However, JusticeNet can facilitate professional indemnity cover for in-house lawyers working pro bono that is **free of charge**. The National Pro Bono Resource Centre has established a policy that will protect both lawyers and pro bono clients in the event of a professional negligence claim. Please contact JusticeNet for more details.

As with fee-paying matters, solicitors undertaking pro bono work will need to have an unrestricted practicing certificate or, if they have a restricted certificate, they must be supervised by someone who has an unrestricted certificate. JusticeNet has been advised that (unlike in some states) there are no specific limitations on practicing certificates in South Australia that prevent in-house lawyers in particular from doing pro bono work.

7. Commitment Required From Firms

Annual membership fees are payable as set out in the attached membership application. Such fees are generally low in comparison with membership fees paid to equivalent centres in the eastern states.

Membership will entitle the firm to participation in the referral scheme and other projects developed by JusticeNet, support in the development of their pro bono practices and the benefits of JusticeNet's marketing.

Members are asked to complete a membership form and to indicate the areas of law in which they are prepared to consider referrals, and to provide the details for pro bono contact.