

Pro Bono Referral Service - Applicant Information Guide

What is pro bono work?

'*Pro bono publico*' (usually shortened to 'pro bono') means 'for the public good'. The Law Society encourages members to provide pro bono legal assistance as part of their wider professional responsibility as legal practitioners. The provision of pro bono legal assistance has been, and continues to be, part of practice traditionally adopted by the legal profession. The Law Society of Tasmania's Scheme is called a Pro Bono Referral Service.

Pro bono legal assistance can take many forms. Lawyers doing pro bono work under the Law Society Scheme do not charge professional fees for their time. However, they may charge for other expenses called 'disbursements', depending on the type of matter, a person's circumstances and the lawyer's pro bono policy.

Applying to the Referral Service is free. However, even if an application is successful there is no obligation on a lawyer to accept a matter referred to him or her by the Referral Service. The Referral Service cannot guarantee it will be able to find a lawyer for all successful applicants.

What is the Pro Bono Referral Service?

The Pro Bono Referral Service tries to match successful applicants (that are in genuine need of legal help) with a law firm or barrister who is able to assist. No legal assistance or advice is provided by the Referral Service but by the lawyers who have volunteered to be part of the Scheme.

What Sort of Legal Issues may the Referral Service Consider?

The Referral Service may assist applicants in two types of matters:

- public legal issues that affect a significant number of people or that raise a matter of broad public concern; and
- personal legal issues that are considered by the Referral Service to have reasonable prospects of success.

Who can apply?

Individuals and some organisations can apply for assistance from the scheme. Eligible organisations include 'not for profit' or community groups whose purpose is primarily charitable and that can demonstrate an appropriate financial need.

Individuals and organisations may also be eligible for assistance if they are likely to suffer a serious injustice without legal representation, are not eligible for a grant of legal aid, and have insufficient means to afford legal services at professional charging rates.

How to Apply

- Applicants need to complete a comprehensive application form. Assistance in completing the application form may be requested from a community legal centre.
- An application for pro bono assistance is **Reviewed** by Law Society staff for completeness. Missing documents or information may be requested. Failure to provide further information or documents may result in an application being refused.
- Applicants may be requested to attend an interview to obtain additional information or clarification of the application.

Assessment of Applications

- An assessment of the completed application is undertaken by an experienced lawyer on behalf of the Referral Service. The assessment includes a summary of the application, a consideration of whether the application meets the relevant eligibility criteria and a recommendation.
- The Pro Bono Referral Service Committee considers the application and makes a final decision. This may take place at a formal meeting or by email.
- If the Committee accepts the application, it is also to recommend appropriate practitioners who have volunteered to consider accepting pro bono referrals.
- If the Committee rejects the application, it may provide the reasons for so doing to.

Eligibility Criteria

To be eligible for pro bono assistance an applicant is required to first satisfy both a means test and a merits test.

A Means Test

For individuals the means test threshold may be satisfied in the case of a person:

- whose gross income and assets are not greater than the threshold set by the Legal Aid Commission of Tasmania to be eligible for a grant of legal aid, or
- who, despite not satisfying the gross income and asset test above, is a person the Referral Service nevertheless considers should be assisted because the applicant's financial or other circumstances prevent him or her being able to obtain the requisite legal assistance, or the provision of pro bono assistance would be in the public interest.

The Referral Service will exercise its discretion in applying the means test threshold. Among other matters, the Referral Service may take account of an applicant's necessary and significant expenditure in determining an applicant's eligibility for assistance. Examples of such expenditure may include large child support payments, rental payments or child care fees.

In the case of organisations the Referral Service will consider the individual financial situation of applicants.

B Merits Test

General Considerations

In all applications, the following questions will be considered:

- whether a lack of legal representation would result in a serious injustice or an otherwise significant detrimental outcome; or
- whether the legal issues raised affect a significant number of people or raise matters of broad public concern; and
- whether the applicant has been refused a grant of legal aid or the matter is not one for which legal aid is available;

C Other Considerations

Where the matter involves litigation, the following questions will be considered:

- whether the proposed litigation has reasonable prospects of success; and
- whether an ordinarily prudent self-funding litigant would risk his/her own resources, including money, in these circumstances;

Where the matter does not involve litigation, the following questions will be considered:

- the matter must have reasonable prospects of being achieved or completed (ie the possible benefit to the applicant of obtaining pro bono assistance should be weighed against the likely costs of taking on the matter); and
- the matter warrants the allocation of scarce pro bono resources?

Final Decision

The decision to refuse or accept an application is at the sole discretion of the Referral Service. In particular, the Referral Service maintains the right to refuse an application in any circumstances including where an applicant:

- has already had an application about the same matter considered by the Referral Service;
- has already obtained legal advice, particularly where the applicant refuses to provide that advice to the Referral Service in his or her application.

What Happens if my Application is Successful?

The Referral Service will notify all applicants of the result of their application.

In the case of successful applications the Referral Service will attempt to match the legal problem with a suitable lawyer.

If a lawyer accepts a matter, he or she will contact the applicant directly and make arrangements to act in the matter. Before starting any work on the matter, the arrangements for the legal representation need to be discussed, including any costs (disbursement) that may be incurred.