



## **Law Firm Guidelines**

## **Introduction**

ProBono.Org facilitates the provision of free legal services to the poor by pro bono private lawyers. These Guidelines are intended to incorporate the general elements that ProBono.Org considers essential for a successful working relationship with independently instructed attorneys in order to provide the best service available to the most vulnerable and marginalised people. These Guidelines are written with the aim of facilitating a smooth transition from the initial referral of the matters over to attorneys from ProBono.Org as well as the professional management and supervision of those matters referred. They also deal with ancillary matters such as the management of the ProBono.Org legal clinics, a number of issues relating to reporting, support, complaints and related issues.

## **Principles**

ProBono.Org is committed to serving the most needy members of our society who require legal assistance. We do so by sourcing appropriate pro bono legal services from the private legal profession for qualifying clients. In order to ensure that highest degree of professionalism is adhered to, we hope that you will adhere to the following broad principles and that you will -

- Align any services you provide with the ethos and purpose of ProBono.Org as a non-profit organisation committed to the Constitution, the rule of law and the public interest;
- Conduct yourself in accordance with the highest possible ethical standards, both in advancing the interests of ProBono.Org and its clients;
- Ensure that proper procedures are in place in order to protect the confidentiality of ProBono.Org and its clients and will ensure that you avoid conflicts between your representation of ProBono.Org, clients and your representation of other clients; and
- Deliver high quality legal services as efficiently as possible.

Any questions you might have about these Guidelines should be directed to the National Director of ProBono.Org at the 1st Floor West Wing, Women's Jail, Constitution Hill, 1 Kotze Street, Braamfontein.

**November 2015**

## **General**

1. ProBono.Org prepares instructions for law firms in which we request law firms to provide pro bono legal services to the organisation itself or to individual members of society, non governmental organisations (NGOs), community based organisations (CBOs) and Small, Medium and Micro-sized Enterprises (SMMEs) (defined together as "clients").
2. The Guidelines will be subject to periodic review and we welcome your comments as to their improvement.

## **Matter Management**

3. ProBono.Org refers matters to private law firms in circumstances where the matter is in the public interest, the client falls within the means test and the matter has merit. In certain situations, the matter may be referred to the law firm in order for the firm to determine if the matter has merit. In regard to NGO, CBO and NPO clients, ProBono.Org refers matters to law firms if the organisations concerned meet the internal criteria of ProBono.Org.
4. ProBono.Org will make every effort to secure all documentation from the client prior to the referral of the matter to your firm. However, pursuant to the handover and referral from ProBono.Org it will be incumbent on the attorney instructed to obtain any further necessary documentation from the client themselves.
5. After the initial referral, an attorney must not let an unreasonable amount of time lapse before the client is contacted. At the first consultation with the client, an attorney must:
  - i. Explain the legal process, relevant time frames, any potential bureaucratic setbacks that may be faced and the legal options available to the client in order to avoid any unreasonable expectations the client may have of the legal process;

- ii. Provide detailed reasons when a matter has no merit or legal remedy;
  - iii. Inform the client how often they can expect to hear from their attorney and contact the client regularly pursuant to this consult;
  - iv. Make sure that he or she informs the client of the importance of providing updated contact details and co-operation in providing the necessary documentation;
  - v. Make sure that the client knows exactly who he or she must communicate with regarding his or her matter, and that the client has been informed of that person's contact details;
  - vi. Explain the difference between attorneys, the law firm and ProBono.Org.
6. Attorneys should be cognisant of the fact that many clients will not have the resources to commute to their offices. To relieve this difficulty, ProBono.Org's offices are available to attorneys for client consultations.
7. ProBono.Org's interns, are wherever possible and by arrangement, available at our offices to act as translators.

### **Reporting**

8. Your firm will be asked to compile and provide reports (which your firm shall undertake at its own cost) at such intervals as ProBono.Org may request. These reports will serve to assist in the mutually effective management of the relationship, specific practice areas and/or individual matters and may include information such as volumes and source of instructions, work in progress, technical details on pending matters and any other relevant information. This information will be used to facilitate the updating of ProBono.Org's own records, enable it to prepare reports and assessments for donors and its board, and enable it to evaluate the effectiveness of the organisation as a whole.

## **Legal Clinics**

9. If a matter is opened at one of ProBono.Org's clinics, the attorney must ensure that the Intake Sheets have been completed in full with the details of the client, case and attorneys filled in.
10. An attorney that volunteers to staff a legal clinic must make every effort to attend the legal clinic on the day that he or she has undertaken to attend. If the attorney is unable to attend the legal clinic he or she must give one week's notice so that ProBono.Org is able to find a replacement. Alternatively the attorney must ensure that a replacement attends in his or her place.
11. If an attorney consults a client at a ProBono.Org legal clinic and the matter requires further legal work, the attorney must, wherever possible take the matter back to his or her firm. If there is any reason why this cannot be done, the matter must be referred to ProBono.Org to instruct another law firm.
12. When an attorney takes a matter back to his or her firm, he or she must report back to ProBono.Org within a maximum period of two weeks and inform ProBono.Org whether the matter will be handled by the firm and whether the firm has notified the client of this fact, and provide the client with the contact details of the attorney responsible for the matter. If the firm requests it, ProBono.Org will contact the client and provide the client with this information. It is of utmost importance that a client who came to a ProBono.Org legal clinic and whose matter has been taken up by a law firm knows the name and contact details of the attorney handling the matter.
13. In the case of an urgent matter the attorney must report back to ProBono.Org on the same day that the attorney consults with the client so that ProBono.Org can make alternative arrangements if the attorney is not taking on the matter,.

## **Mentorship, advice and support**

14. ProBono.Org is available to offer support to attorneys that assist its clients at legal clinics or through referrals.

15. In addition to the support that ProBono.Org offers, it is able to make available pro bono mentors who are experts in particular areas of law to give telephonic or email advice.
16. ProBono.Org has prepared electronic and hard copy manuals for attorneys on refugee law, consumer law and housing law that are available on request.

### **The Law Society of the Northern Provinces (LSNP)**

17. The LSNP has a means test that stipulates applicants will only qualify for legal assistance if their gross monthly household income does not exceed R7 000.00 (seven thousand rand).
18. ProBono.Org has its own means test, which has been accepted by the LSNP for NGOs, CBOs, SMMEs and other groups. It uses this means test to decide whether an NGO, CBO or SMME qualifies for pro bono legal assistance.
19. For the most part, ProBono.Org utilises the LSNP's means test, however, it is prepared to assist individual clients on a pro bono basis outside of the LSNP's means test when the client is unable to afford private legal fees and the matter is in the public interest.
20. ProBono.Org has an agreement with the LSNP in terms of which it may (however, it is in no way obligated to) report the pro bono hours of attorneys that do their pro bono work through ProBono.Org.
21. If attorneys wish to avail themselves of this service ProBono.Org will require such attorneys to report their pro bono hours to ProBono.Org on a quarterly basis. These hours may be made up of time consulting clients at law clinics, time spent on pro bono matters referred to law firms, time spent giving training to community groups and indigent beneficiaries, time spent advising NGOs, CBOs, SMMEs, and other groups, and time assisting ProBono.Org.

22. You should note that ProBono.Org might only report hours to the LSNP if the matter falls within the LSNP's means test.

### **Personnel**

23. Work carried out for ProBono.Org should be assigned to staff having an appropriate level of training and experience for the task. Although we understand that candidate attorneys are an important part of a law firm, we still expect trainees to be properly supervised and add value to any work.
24. We expect that your firm will identify one or more senior partners (or a dedicated staff member responsible for pro bono in the firm) who will be responsible for your relationship with ProBono.Org and who will endeavour to keep in regular contact. Should any personnel leave the firm, the senior partner must ensure the continuity of the matter and facilitate a proper handover of the matter to new attorney. When matters are transferred to another attorney, clients must be contacted to inform them of the change.

### **Media and Publicity**

25. If you have been instructed by ProBono.Org to represent a client, you must not make any statements to the media about the client or his or her matter without securing advance approval from the client, with the exception of factual matters already in the public domain.
26. If you wish to publicise projects and initiatives that you are undertaking in conjunction with ProBono.Org, including advertisements, press releases and other public information, you must disclose the fact that the project and/or initiative is being undertaken with ProBono.Org and ensure that ProBono.Org is given at least the same amount of coverage as your firm, in respect of this publicity, to the best of your ability.

## **Disbursements and other costs**

27. All work in respect of which ProBono.Org will engage you will be work of a pro bono nature, which shall not be charged, either to ProBono.Org or to the clients of your legal services. In general the charges which your firm will be expected to fund include, in addition to the professional time and administrative expenses of your staff, all disbursement costs (including costs of transcriptions, court related expenses such as the upliftment of court files, sheriff's fees and where applicable, transfer costs) incurred by your firm in acting on our behalf or on behalf of our clients. In the event that your firm is unable to fund the costs you may follow a course of action as set out hereunder:

- i. You are requested to hand the matter back to ProBono.Org, in order that we are able to instruct a firm that is able to assume the costs in handling the matter;
- ii. You are requested to inform the client that you are unable to fund disbursements, give the client an estimate of what these costs may be, so that the client is in a position to consider raising these amounts him or herself;
- iii. You may request ProBono.Org to attempt to secure funds for disbursements from the LSNP's Disbursement Fund which has been set up to assist indigent members of the public with disbursements;
- iv. You may approach the said fund directly to secure disbursements.

28. Should counsel be briefed in the matter, counsel should be briefed on a pro bono basis in accordance with the local rules and practice of the applicable bar society. In cases where you consider it necessary to instruct outside professionals on behalf of ProBono.Org or on behalf of clients, such as specialist advisers, you are entitled to exercise your discretion in doing so and where possible, brief the necessary persons on a pro bono basis. If this is not all possible, we expect all costs and fees of such external professionals to be payable in full by your firm, subject to 27 (i), (ii), (iii) and (iv) above.

**Complaints**

- 29. All concerns or complaints that ProBono.Org may have arising out of any work done by your firm, including but not limited to complaints relating to cancellations of clinics, failure to act appropriately in urgent matters, incomplete Intake Sheets and failure to report as required in 8 and 21 above, will be brought to the attention of the client contact partner or staff member in the first instance.
  
- 30. In the event of a client of ProBono.Org whose matter has been referred to your law firm complaining to ProBono.Org about their matter and any issue relating to the handling of the matter, this will be brought to the attention of the client contact partner or staff member in the first instance.
  
- 31. All general concerns or complaints that your firm has arising out of the relationship with ProBono.Org should be canvassed with the National Director of ProBono.Org.

**Undertaking by law firm**

This signature page is to be signed by a representative of the law firm that provides services to ProBono.Org and its clients. In signing this undertaking your law firm is agreeing to adhere to these Guidelines in regard to such pro bono services.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Associated Law Firm: \_\_\_\_\_

Contact number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

