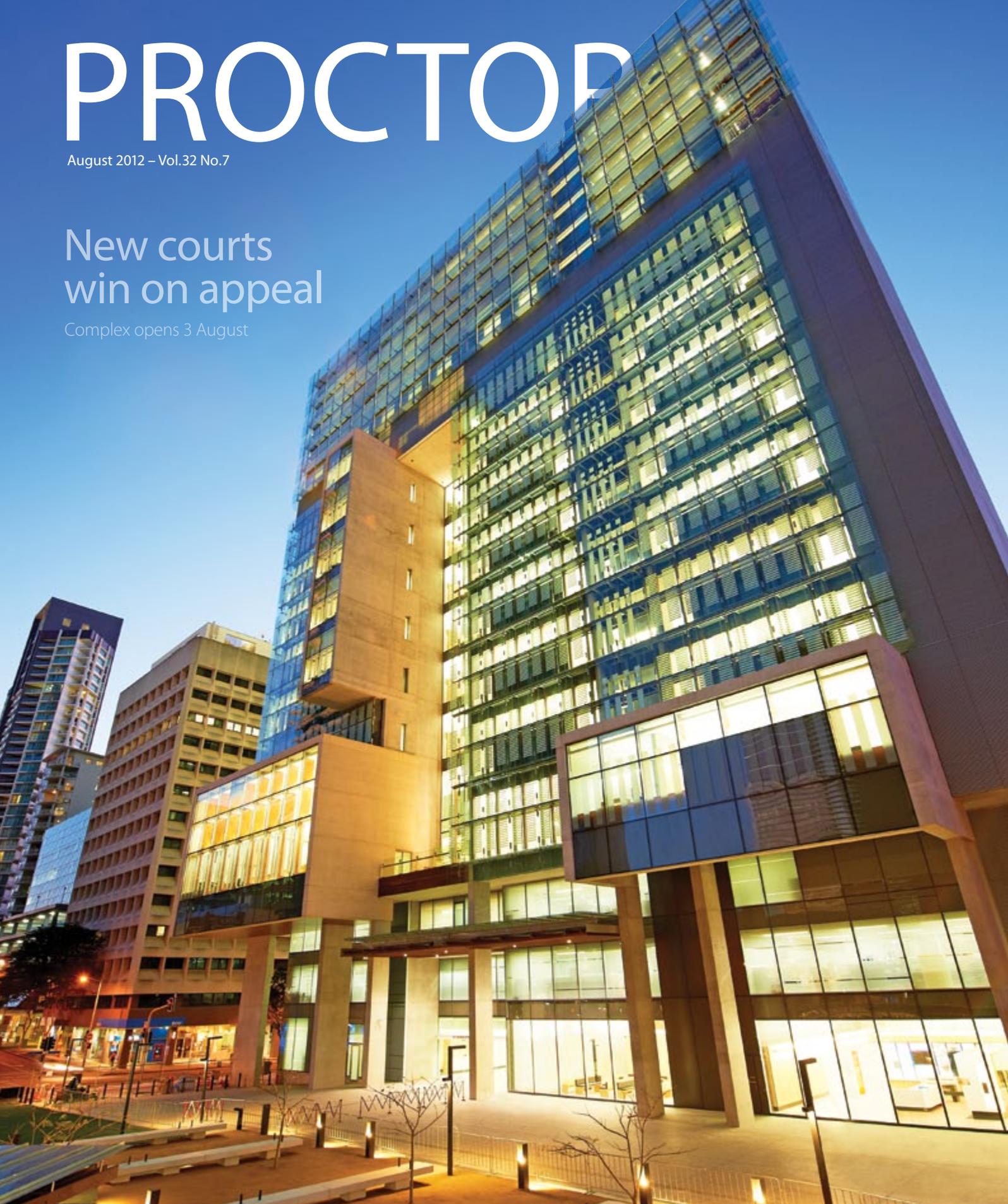


PROCTOR

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The pro bono difference



by Cameron Lavery

QPILCH and the QLS Pro Bono Referral Service.

The second of two articles profiling the Queensland Public Interest Law Clearing House Incorporated (QPILCH) looks at its management of the QLS Pro Bono Referral Service.

Since the early 1990s, Legal Aid Queensland has provided limited funding for civil law services, as government funding has been directed mainly at criminal and family law.

In the early 2000s, Queensland Law Society established a number of pro bono referral schemes and, to sustain this commitment, asked the Queensland Public Interest Law Clearing House Incorporated (QPILCH), which had a legal and administrative structure and strong pro bono ethos, to manage them.

Now, several years later and in challenging social and economic times, it is opportune

to acknowledge the valuable and increasing contribution to pro bono work by law firms across Queensland.

Since February 2009, QPILCH has coordinated the pro bono schemes for both QLS and the Bar Association of Queensland. The schemes are now branded to the public as the QLS Pro Bono Referral Service and the Bar Pro Bono Referral Service, and operate alongside QPILCH's Public Interest Referral Service to facilitate pro bono legal assistance between the community and Queensland's private legal profession. The result is a 'one stop shop' for individuals and not-for-profit organisations seeking pro bono legal assistance in Queensland.

The service refers eligible applicants who have sufficient legal merit (and often personal and financial hardship) to QLS member firms

which have agreed to receive pro bono referral requests. The service also coordinates this with referrals to barristers.

Participating in the service

Participation in this service is free for all QLS member firms and there is no obligation to accept a referral or take on a matter. Participant firms can nominate which staff member(s) receive referral requests from QPILCH.

How the referral process works

Before sending a referral request, QPILCH gathers information from the applicant. QPILCH staff and volunteers then undertake a detailed case assessment. The service aims to ensure that participating firms are only sent referral requests that are considered to have prospects of success and most deserve legal assistance or representation. Firms can select referrals that match their expertise, capacity and location.

The valuable work of the service is illustrated through the stories of the following three applicants, who were all recently referred to firms.

Intellectually impaired woman taken advantage of by trustees of a will

The client is an intellectually impaired woman. Prior to her husband's death he was intimidated and pressured by a couple he knew socially, and the couple was later appointed trustees and executors in his final will. The will created a trust over his estate and granted the client a life interest. The client alleged that the couple took advantage of her impairment and coerced her into signing documents that she did not understand.

The trustees sold the client's home (which was in the husband's name) and used the proceeds to purchase a smaller townhouse for half the price. The client does not know what happened to the remaining proceeds, which under the will should be held on trust and put towards her well-being. The client resides at the townhouse but the trustees are the registered owners, and enter the property at their leisure. The client claims that they are often verbally abusive and push her out of the way.

The service referred this matter to a firm, which is advising the woman on her options.

Young family's savings misappropriated by mother-in-law

The mother-in-law of a young, unemployed man from a non-English speaking background allegedly misappropriated his young family's entire savings of close to \$100,000. On the client's arrival in Australia, the mother-in-law offered to save the client's money in her bank accounts to help him to save for a home. After the client accumulated a substantial amount in savings, the mother-in-law denied any knowledge of the arrangement and refused to return any money to the client or his wife.

The client says that the mother-in-law and her husband have attacked the client's home and threatened violence if the man continues to ask for his money to be returned. The client and his wife and their newborn child are now estranged from the mother-in-law. The service received an opinion from counsel, who also offered to represent the client. The matter was then referred to a firm, which is now helping the client recover his loss.

Disabled man facing homelessness after being induced to lend over \$800,000

A disabled man who has been unable to work for many years was allegedly induced to lend over \$800,000 to another person. The client financed the loan by taking out a bank loan secured against his family home, which he inherited. The client was recently ordered to give the bank possession of his home along with over \$900,000.

Default judgement was entered in 2011 and the client was served with notice from the bank's solicitors to vacate his family home and pay the judgment amount. The client has no capacity to pay and he and his family face homelessness if the bank enforces the notice. A small regional firm was assisting the client pro bono and approached the service to obtain more specialist assistance. The client is now being represented pro bono by counsel and a larger firm.

EXAMPLES

Firms can also offer to help with discrete legal tasks to ensure their contribution is manageable. For example, a firm recently represented a man to set aside a decision made in his absence, and then another firm stepped in to assist in the substantive case.

When a firm accepts a referral, QPILCH prepares a brief of materials and contacts the applicant with our standard referral guidelines. The applicant then becomes a client of the firm. QPILCH has a model solicitor/client agreement which helps firms to protect their right to recover costs.

QPILCH also has a limited disbursement fund that is maintained through fundraising events such as the Walk for Justice, which can be used in eligible cases where a client cannot afford certain disbursements, such as expert reports and travel.

On completion of the matter, QPILCH asks firms to complete a simple matter closure form so that we can report on and acknowledge the valuable pro bono work of the profession. QPILCH also welcomes other feedback from participants, particularly regarding the types of matters and frequency of the service's referral requests and our general referral processes.

Assistance provided if applications are not accepted

When a matter is assessed as ineligible for referral or is not taken up by a participant, the service writes to the applicant explaining why we are unable to refer their matter.

The service also provides the majority of these applicants with practical information, advice on their options, guidance about other agencies to contact for assistance, and often a follow-up telephone call. QPILCH has

received feedback from applicants that the service's letters are a particularly useful type of free legal assistance.

Benefits of participating

The benefits to participating firms and practitioners include:

- supporting the pro bono referral service of their professional association
- helping to rectify some of the inequities, disadvantage and hardship which result from unequal access to justice in Queensland
- providing assistance to people in need in local communities
- being able to access an established, targeted and structured pro bono service in which the merits of the applicant have been established independently, reducing the firm's need to assess and be involved in this process
- being able to refer approaches from members of the public or not-for-profit organisations to QPILCH for assessment
- receiving an organised brief of materials from QPILCH for each referral accepted, which saves time and effort
- accessing low-cost training in the areas of law supported through the service, which assists with CPD requirements
- receiving formal acknowledgement of pro bono contributions.

Meeting rising community demand

There are now 41 firms which regularly accept pro bono referral requests participating in the service. QPILCH acknowledges their substantial contribution to the provision of pro bono legal services in Queensland.

Since 2009, the service has received 747 applications for assistance, including

276 applications in the last financial year. Applicants are referred to QPILCH from other community legal centres, law firms, barristers, QLS and the BAQ, government departments and other agencies.

In the last three years, the service has sent out 218 requests for assistance, and participants have taken on 141 matters. Referral requests and the number of successful referrals have steadily increased since 2009. The service has referred out a wide range of matters in areas that include consumer credit, discrimination, elder financial abuse, property law and administrative law.

How to get involved

With the participation of more law firms, we can assist more disadvantaged and vulnerable Queenslanders with their civil law problems. We encourage all QLS member law firms to consider participating in the service.

If you would like to become a participant or you would like more information, please contact QPILCH on (07) 3846 6317 or at administration@qpilch.org.au. You can also download the registration form for the service from qpilch.org.au.

Acknowledgements

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