

Best Practices for Pro Bono Delivery Programs in British Columbia

PURPOSE

The purpose of this document is to provide a set of best practices for pro bono delivery programs and lawyers volunteering their services through a pro bono delivery program.

BACKGROUND FACTS

- A. Pro Bono Law BC (“PBLBC”) was incorporated to promote access to justice by facilitating and coordinating opportunities for BC lawyers to provide pro bono legal services to people of limited means, and by supporting programs delivering pro bono services.
- B. PBLBC’s guiding principles are that pro bono should be viewed as an integral part of the legal services delivery system, not a separate system; that pro bono should complement, not replace, government-funded programs to ensure access to justice; and that pro bono is not a substitute for a properly funded legal aid system.
- C. There are a number of pro bono delivery programs in British Columbia whose objectives are to provide access to justice for the public through the provision of free legal assistance.
- D. To assist pro bono delivery programs in British Columbia, PBLBC has developed the following suggested guidelines for best practices.

PRO BONO PROGRAM PRINCIPLES

- 1. A pro bono delivery program should establish a mechanism for identifying the legal needs of persons of limited means who reside within its service area, and should do so in light of its own organizational priorities, objectives, and expertise.
- 2. A pro bono delivery program should allocate its resources based upon identified client needs while taking into account areas of interest and expertise of volunteers, volunteer need for specialized training and support, and the priorities of other providers of legal services and social services in their service area.
- 3. A pro bono delivery program should strive to achieve lasting results responsive to clients’ needs and objectives by utilizing volunteers to resolve or assist in resolving clients’ individual problems, to work cooperatively with other agencies to improve laws and practices affecting clients, and to increase client self-sufficiency.
- 4. A pro bono delivery program or its parent agency should establish and maintain systems and procedures to account for revenues, expenditures, and program services in conformity with appropriate accounting principles for not-for-profit organizations.
- 5. A pro bono delivery program should not impermissibly discriminate in the acceptance and placement of cases, in the recruitment of volunteers, or in the employment of staff; to the extent practicable, staff hired and volunteers recruited should reflect the diversity of the community being served.

6. A pro bono delivery program should adopt policies and procedures that facilitate access to its services by the client community.
7. A pro bono delivery program should use relevant technology, where appropriate, for greater involvement of lawyers, support for pro bono lawyers, communicating with legal clinics, if any, and getting information to clients.
8. A pro bono delivery program should establish a policy regarding a client's financial or other eligibility for pro bono assistance which is consistent with providing services to individuals of limited means.
9. A pro bono delivery program should establish a policy regarding the acceptance of matters which focuses on the identified priorities of the program, which considers the maximum number of matters that volunteers can reasonably address, and which takes into account the resources available to provide volunteers with any necessary preparation and support.
10. A pro bono delivery program should periodically evaluate its effectiveness and implement appropriate improvements on a continuing basis.
11. A pro bono delivery program should apply through PBLBC to be approved for the purpose of obtaining insurance for lawyers providing pro bono services through it.

Service Delivery Principles

12. A pro bono delivery program should establish or utilize an intake system through which knowledgeable staff or volunteers determine eligibility, identify potential conflicts of interest, obtain essential facts, identify all legal issues, and maintain client confidentiality and client dignity.
13. A pro bono delivery program should establish a system for timely and appropriate referrals; when placing matters, a program should provide volunteers with information regarding the nature of the problem and all known pertinent facts and documents.
14. A pro bono delivery program should establish a system for obtaining information regarding the progress of matters placed with volunteers.
15. A pro bono delivery program should implement policies for an internal record keeping system for applicants, clients, volunteers and available services; such a system may be used to: identify conflicts of interest; match clients with volunteer lawyers; facilitate assessment of the program; respond to data requests; assure continuity in recording information; and facilitate data retrieval. For each matter on which a volunteer lawyer provides services, a record that includes at least the following basic information should be created and maintained as a minimum:
 - Name and Law Society member number of volunteer lawyer;
 - Name of the client;
 - Date(s) that services were provided; and
 - A brief description of the nature of services provided.
16. A pro bono delivery program should establish and communicate to clients and volunteers a policy and procedure regarding the payment of costs in matters in which filing fees, service fees, discovery, use of expert witnesses and other expenses related to representation are appropriate.
17. A pro bono delivery program should obtain liability insurance coverage for itself and its staff.
18. A pro bono delivery program should establish and communicate to clients and volunteers a policy regarding the receipt of lawyers fees by program volunteers.
19. A pro bono delivery program or its parent organization should establish a policy and procedure to address complaints regarding the denial, quality and manner of service.

20. In addition to the requirement to retain certain basic information referred to in paragraph 14 above, a pro bono delivery program or its volunteer lawyers should maintain or have available basic client information and case tracking systems, including a) notes of each encounter between a volunteer lawyer and a client, and b) as appropriate, copies of client documents, a BF/diary and limitations systems, and other such documentation and processes as are normally necessary to support a client file.

Client Relations Principles

21. A pro bono delivery program or its parent organization should establish written guidelines to determine an applicant's eligibility for service.
22. A pro bono delivery program should clearly communicate the nature of the relationship it is establishing with each client and volunteer and delineate each party's rights and responsibilities including any limitations on the scope of a volunteer lawyer's retainer.
23. A pro bono delivery program should aid a client, and the volunteer who is representing or otherwise assisting that client, in communicating clearly their duties and responsibilities to each other.
24. A pro bono delivery program should strive to establish a relationship with each client that fosters trust and preserves client dignity.
25. Consistent with ethical and legal responsibilities, a pro bono delivery program should preserve information regarding clients and applicants from any disclosure not authorized by the client or applicant.
26. A pro bono delivery program and its volunteers should communicate effectively with clients taking into account any special needs.

Program Staff

27. A pro bono delivery program should have management that effectively links people with legal needs with volunteer lawyers who can assist with meeting those needs.
28. A pro bono delivery program should have a manager whose time is dedicated to management of the pro bono program.
29. A manager should
- demonstrate ability to establish and nurture relationships with volunteers, service providers and other relevant entities and coordinate the delivery of services;
 - have experience (or be prepared to obtain training) in such matters as program operations, administration, fiscal management, resource development and other skills required for successful management of a program;
 - have the ability to integrate the pro bono work of volunteers with the legal work performed by the program's paid staff; if any;
 - be willing to explore and manage systems that provide efficient client service and utilization of pro bono advocates;
 - have the ability to identify multiple legal issues and potential conflicts; and
 - regularly participate in substantive law training and/or acquire information about recent developments in the substantive law.

Program Volunteers

30. A pro bono delivery program should develop effective strategies for utilizing volunteers to meet clients' needs.
31. A pro bono delivery program should strive to determine that representation and advice are provided by volunteers who are competent and sensitive to clients.

32. A pro bono delivery program should implement procedures to verify that a volunteer lawyer is, and continues to be, a member in good standing shown on the records of the LSBC.
33. A pro bono delivery program should develop an annual plan for recruiting volunteers on its own, or in cooperation with PBLBC, which should be incorporated as part of an overall business plan for the program.
34. The recruiting plan should include, but not be limited to, the program's strategies for targeted recruitment of lawyers (e.g., lawyers with special skills, government lawyers, new lawyers, etc.) and the program's process for making the local bar association in its service area aware of its recruitment plan.
35. A pro bono delivery program should, on its own, or in cooperation with others, provide training opportunities, substantive materials, orientation materials, and other resources and support services to its volunteers.
36. A pro bono delivery program should monitor the LSBC membership status of its volunteers, including whether the volunteer is a member in good standing, on a regular basis, provide opportunities for feedback on a regular basis for lawyers, and solicit suggestions for improvement of the program at case closing.
37. A pro bono delivery program should develop effective methods for the recognition of its volunteers.

Relationships with other Organizations

38. A pro bono delivery program should meet periodically with other providers of legal services in its service area as well as develop other ways to cooperate, collaborate and coordinate with those entities.
39. A pro bono delivery program should strive to develop and maintain an active, cooperative and collaborative relationship with the organized bar.
40. A pro bono delivery program should strive to develop and maintain active and cooperative relations with community organizations and social service agencies that serve clients, including, wherever possible, any coalitions, service councils, and information and referral programs that may serve clients in the region.