

# **Te Ara Ture**

## **Provider - General Terms**

### **1. About the Parties**

1. Te Ara Ture is a legal service referral program operated under Community Law Centres o Aotearoa Incorporated (“CLCA”) through a contract with the Ministry of Justice. Te Ara Ture is not a separate legal entity to CLCA. Te Ara Ture and CLCA are not community law centres (as defined by the Legal Services Act 2011) and are not regulated by the Lawyers and Conveyancers Act 2006 or its association regulations.
2. You are a law firm or lawyer providing regulated legal services (as defined by the Legal Services Act 2011) and are regulated by the Lawyers and Conveyancers Act 2006 and its associated regulations (hereinafter referred to as “you” or “Pro Bono Provider”).

### **2. Term**

1. The term of these General Terms is from the date it is signed until you or Te Ara Ture terminate it by 28 days’ notice in writing.

### **3. Service Overview**

1. Te Ara Ture will develop and maintain a database of pro bono providers and will accept applications for pro bono legal services (as defined in Appendix 1) from legal assistance organisations, other community organisations, and members of the public. Upon accepting an application, Te Ara Ture will attempt to match the matter with a Pro Bono Provider who is willing to work on the matter on a pro bono basis. In the event a Pro Bono Provider accepts the matter on that basis, Te Ara Ture will make a placement and introduce the client to the Pro Bono Provider.
2. Te Ara Ture will make referrals through the Portal (as defined under Definitions). Te Ara Ture will post pro bono opportunities on the Portal which will be visible to Pro Bono Providers who are registered with Te Ara Ture to receive referrals of that kind. Te Ara Ture will attempt to match matters with Pro Bono Providers by inviting Expressions of Interest (as defined under Definitions).
3. Te Ara Ture will only accept applications from within specified practice areas. Te Ara Ture will maintain a list of practice areas it will accept applications from, and it will be comprised of the practice areas Pro Bono Providers have selected within the Portal as areas they wish to work in.
4. Te Ara Ture will only accept applications that meet an eligibility test. The test will comprise both financial and non-financial elements (such as legal merits).
5. Pro Bono Providers are under no obligation to submit Expressions of Interest or accept Opportunities (as defined under Definitions). Te Ara Ture makes no guarantee to clients that matters will be accepted by Pro Bono Providers.
6. Te Ara Ture is intended as a service of last resort. Te Ara Ture will retain in its absolute discretion the right to decline an application. Without limiting its

discretion, Te Ara Ture may decline a referral where the client has means to pay for a lawyer, is eligible for legal aid, is vexatious, is pursuing a matter on the basis of principle, or where in Te Ara Ture's view the matter is not a reasonable use of pro bono resources.

#### **4. Regulated Relationships**

1. The referral of a matter through the service comprises a chain involving several entities. In some cases, a client will move from one lawyer/client relationship to another. The parties acknowledge it is important the relationship between clients and all entities involved in the referral process is defined at each point of the chain.
2. The parties agree to work together in good faith to develop and use referral processes and documents which provide clarity in any given instance. Those referral processes and documents will provide for the following:
  1. Te Ara Ture is not, as defined Lawyers and Conveyancers Act 2006, a provider of regulated services, a lawyer, a law firm (whether incorporated or unincorporated) or a community law centre. As such, no client/lawyer relationship can be formed with Te Ara Ture. No lawyer/client relationship is formed between Te Ara Ture and a client whose application is accepted by Te Ara Ture or who receive a placement from Te Ara Ture
  2. A client/lawyer relationship will form between the Pro Bono Provider and client only once the Pro Bono Provider has completed its own onboarding processes with the client, including the acceptance by the client of the Pro Bono Provider's terms of engagement (and satisfaction of any conditions imposed by the Pro Bono Provider).
  3. Any client/lawyer relationship between a regulated Legal Assistance Organisation, such as a community law centre, terminates once the client has completed the application form and it has been submitted to Te Ara Ture.
3. Te Ara Ture will only accept an application or post a matter as an Opportunity if the applicant has accepted in writing the matters outlined at 4.2.1-4.2.3.

#### **5. Scope and Nature of Services**

1. For each Opportunity, Te Ara Ture will define the scope of work requested in terms of:
  1. area of law;
  2. opportunity type; and
  3. help requested.
2. The scope of work covered by the referral will be defined by reference to the original posting and any subsequent discussion, clarification or variation made within the Portal. The scope of work covered by the referral will be documented in the Pro Bono Provider's terms of engagement with the client.

#### **6. Pro Bono Provider Costs**

1. The hours of legal service provided by the Pro Bono Provider, within the scope of work, will be undertaken:
  1. for free (in the case of individuals); or
  2. at a reduced fee within the range of 0% to 50% of your standard hourly charges (in the case of bodies corporate, including charities, other not for profit or social enterprises).
2. The Pro Bono Provider accepts the referral on the basis that:
  1. With respect to internal disbursements (such as services such as postage, photocopying, printing and telephone calls), the client will:
    1. not have to pay the first \$200.00 of; or
    2. You agree to waive all internal disbursements.
  2. You may pass on to the client external disbursements, which include, but may not be limited to, court filing fees, expert witnesses, interpreters and travel expenses that we could incur on your behalf.
  3. If the referral is for a litigation or other complex matter where disbursements are likely to be significant you may, prior to beginning work on the referral, enter into disbursement agreement with that provides for:
    1. charging all internal and external disbursements to the client; and/or
    2. obtaining payment for such disbursements in advance
  4. Any costs in addition to the above, including legal service hours beyond the defined scope of work, may be passed on to the client by the Pro Bono Provider. In the event you wish to pass on the additional costs you must notify the client before they are incurred and/or be explained in your terms of engagement with the client.

## **7. Liability and Entitlement to Costs**

1. The application process discloses to clients that in litigated matters, it likely the court will order the losing parties to pay the opposing party's legal costs. In the event a client has court costs ordered against them then the client will be required to pay those costs. The Pro Bono Provider, Te Ara Ture and the Legal Assistance Organisations will not be liable for those costs.
2. The application process also discloses that successful parties may have costs awarded in their favour. In the event of litigated matters (or matters where litigation is intended) you may enter into a costs agreement that provides for the recovery of your costs from a third party, but only if the work you perform for the client results in an entitlement to costs (as defined at 20 below).
3. An 'Entitlement to Costs' means any of the following during or at the end of the work performed for the client:
  1. either of:
    1. a court or tribunal judgment, award or order for costs in the client's favour; or

2. an agreement that your costs or disbursements or both be paid by another party; and
2. the client is able to recover some or all of your standard hourly charges and disbursements from the other party
4. To avoid doubt, you cannot recover costs from the client unless the client has first recovered costs from the third party.

## **8. Portal**

1. Te Ara Ture makes referrals via a software program that manages the placement of pro bono opportunities with Pro Bono Providers.
2. The Portal can be used by registered users to:
  1. post and send Opportunities in the Portal;
  2. manage Expressions of Interest;
  3. manage workflows around the placement and management of Opportunities;
  4. communicate with Pro Bono Providers about Opportunities;
  5. transfer documents and information to Pro Bono Providers; and
  6. view and report on activity in the Portal.
3. You agree to register as a user of the Portal and use the Portal for the selection and referral of Opportunities through the Te Ara Ture.
4. Use of the Portal is governed by Te Ara Ture's Privacy Policy and Portal Terms of Service. By using the Portal, you agree to be legally bound by those terms and conditions.

## **9. Information Sharing, Privacy and Reporting**

1. For the service to operate effectively information needs to be collected and shared amongst various parties and used for various purposes.
2. Placing Matters
  1. Placing matters through Te Ara Ture requires the sharing of personal information. Information must be shared with Te Ara Ture so it can assess eligibility, determine what assistance is required, and match matters with Pro Bono Providers. We must also share information with Pro Bono Providers so they can make informed choices about whether to offer help.
3. Planning and reporting
  1. Te Ara Ture is required to report to Ministry of Justice information about the activities of Te Ara Ture and the services provided by Pro Bono Providers. Te Ara Ture is also required to report to Justice Connect (the developer of the Portal) deidentified and aggregated data about the use of the Portal. To ensure services are effective and adequately resourced, Te Ara Ture also needs to collect and use information for auditing, research, planning, marketing and reporting purposes.

2. Te Ara Ture will collect information about the work the Pro Bono Providers do on matters referred by us. We will collect and generate aggregated and deidentified data about firms, clients, hours, practice areas, scope of practice and any other field appearing on the Portal.
3. We will also collect this information by way of reports from Pro Bono Providers, which include the following information about each matter:
  1. the experience levels of personnel who worked on the matter;
  2. the number of hours worked;
  3. the work product produced; and
  4. the outcomes achieved.
4. You agree to provide to us each quarter the information described in 9.3.3 and agree to us collecting the information described in 9.3.3. You do not need to provide the information described in 9.3.3 if you reasonably believe that the disclosure to Te Ara Ture will harm your legal client's position, is contrary to a legal obligation they owe, will void legal privilege, will violate the terms of a settlement agreement, or is contrary to your obligation to protect your client's interests.
5. We may use the information in 9.3.2 and 9.3.3 for the purposes described in 9.3.1.
6. We will not release any data that identifies your firm and its pro bono activities without your express consent.
7. Te Ara Ture will not disclose any of the information described in 9.3.2 and 9.3.3 other than in a deidentified, aggregated manner. In the event Te Ara Ture wishes to report narrative information about cases you worked on we will seek the express consent of you and your client.
8. Te Ara Ture will only accept an application or post a matter as an Opportunity if the applicant has agreed in writing to the sharing of information as outlined in 9.3.2 and 9.3.3 and the Information Sharing Disclosure Statement.

## **10. Obligations and rights of Te Ara Ture**

1. Te Ara Ture will:
  1. Only post Opportunities on the Portal or place clients with you who have:
    1. Passed the eligibility test (or we have obtained your agreement to exempt the client from the test);
    2. Terminated any prior lawyer/client relationships between the client and the Legal Assistance Organisation;
    3. Acknowledged and agreed that no lawyer/client relationship exists nor ever existed between them and Te Ara Ture;
    4. Provided the authorisation and acknowledgments described in the Information Sharing Disclosure Statement including an authorisation

and acknowledgment on Te Ara Ture's Privacy Policy and the risks of disclosure; and

5. Accepted the terms and conditions, including matters relating to Pro Bono Provider costs and court costs.
2. Use reasonable efforts to make referrals to you via the Portal
3. Ensure that on the Te Ara Ture website and in annual reports about Te Ara Ture service, it acknowledges that you are a participant of Te Ara Ture service.
2. Te Ara Ture may:
  1. decline applications in its absolute discretion;
  2. withdraw Opportunities if they have not been accepted within what Te Ara Ture considers, in its absolute discretion, to be a reasonable time frame;
  3. vary these General Terms, Privacy Policy and Portal Terms of Service, provided that 60 days' notice of such amendments are provided to you
  4. amend the eligibility criteria in its absolute discretion;
  5. amend the policies and procedures used to operate the service provide that prior reasonable notice is given to any such amendments; and
  6. develop other pro bono services or facilitate other pro bono activities in addition to referral services. For example, Te Ara Ture may facilitate pro bono secondments to community law centres, broker the partnering of a community law centre and pro bono provider on a matter, or broker the outsourcing of discrete tasks of a legal matter the community law centre continues to act on. These services and activities will be governed by separate terms and conditions agreed to between the parties, or where not agreed, these terms and conditions shall apply to the extent relevant.

## **11. Obligations and rights of you**

1. You will:
  1. assign a dedicated pro bono coordinator to administer your referrals via the Portal;
  2. make reasonable efforts to accept referrals through the service;
  3. be responsible for onboarding the client after the referral has been accepted by you, including all steps required by client care rules;
  4. be solely responsible for providing pro bono legal services, as specified in the scope of work, to the client referrals accepted by you and Te Ara Ture;
  5. ensure that you or your lawyers will give the same priority to pro bono services as paid work, and ensure that the pro bono service is completed to the same high standards;
  6. ensure that you or your lawyers are competent to take on the matter, fully observe client confidentiality and all other rules of professional ethics;
  7. comply with the Portal Terms of Use and Privacy Policy; and

8. keep in strict confidence, pursuant to rule 8.1 of the client care rules, any information received by you following confirmation by you that a conflict of interest does not exist and you want more substantive information (for the purposes of either deciding whether to offer services or accepting a referral).
2. You may:
  1. set your own pro bono policies, criteria and strategies; and
  2. develop independent pro bono programs and work streams.

## **12. Dispute Resolution**

1. The Parties will cooperate with each other and use all reasonable effort to resolve any disputes or differences arising under these General Terms.
2. If a dispute is unable to be resolved within 14 days of the date it is notified to the other party, it must be referred to mediation by a New Zealand Law Society approved mediator agreed to by the parties before any legal or other action in relation to the dispute is taken.

## **13. Variation**

1. Te Ara Ture may vary these General Terms, Privacy Policy and Portal Terms of Service, provided that 60 days' notice of such amendments are provided to you

## **14. Legally Binding**

1. By registering with Te Ara Ture, using the portal or otherwise accepting referrals from Te Ara Ture you agree to be bound by these General Terms, the Privacy Policy, and the Portal Terms of Service.
2. This Provider - General Terms is governed under the laws of New Zealand and is legally binding.

## **15. Definitions**

1. In this document, unless the context requires otherwise:
  1. **Legal Assistance Organisation** means a legal services organisation that refers matters to Te Ara Ture or posts matters directly on the Portal, including community legal centres and other organisations that provide free legal services.
  2. **Opportunity** means a request for legal assistance posted on the Portal by a Legal Assistance Organisation. For clarity, this includes, without limitation, requests to provide legal assistance to a client by providing advice or representation, and non-client-based requests such as requests for assistance regarding law reform advocacy and legal resource review.
  3. **Pro Bono** means - as set out in Appendix 1

4. **Portal** means the software program operated by Te Ara Ture that manages the placement of pro bono opportunities with Pro Bono Providers (and includes any subsequent releases, updates or patches to the Portal).
5. **Privacy Policy** means Te Ara Ture’s privacy policy available at <https://www.tearature.co.nz/privacy-policy>
6. **Pro Bono Provider** means person or law firm offering pro bono services that is a registered user of the Portal.
7. **Te Ara Ture** means the legal matter referral service program operated under Community Law Centres o Aotearoa Incorporated through a contract with the Ministry of Justice. Te Ara Ture is not a separate legal entity to Community Law Centres o Aotearoa Incorporated.

## APPENDIX 1

### DEFINITION OF PRO BONO LEGAL SERVICES

“Pro bono legal services” means for the purposes of the Te Ara Ture referrals:

1. Giving legal assistance for free or at a substantially reduced fee to:
  1. individuals who can demonstrate a need for legal assistance but cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial hardship; or
  2. individuals or organisations whose matter raises an issue of public interest which would not otherwise be pursued; or
  3. charities, other not-for-profit organisations or social enterprises, in each case where their sole or primary purpose is to work in the interests of low income or disadvantaged members of the community, or for the public good.
2. Conducting law reform and policy work on issues affecting low income or disadvantaged members of the community, or on issues of public interest.
3. Participating in the provision of free community legal education on issues affecting low income or disadvantaged members of the community or on issues of public interest.
4. Providing a lawyer on secondment at a community organisation (including a community legal organisation) or at a referral service provider such as a Public Interest Law Clearing House.

The following is NOT regarded as “pro bono legal services”:

1. giving legal assistance to any person for free or at a reduced fee without reference to whether that person can afford to pay for that legal assistance or whether that person’s case raises an issue of public interest.
2. free first consultations with clients who are otherwise billed at your normal rates.

3. legal assistance provided under a grant of legal assistance from Legal Aid.
4. contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee.