



## **Fourth Annual Performance Report on the National Pro Bono Aspirational Target**

**September 2011**

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## Contents

1. Background.....	2
2. Methodology .....	2
3. Executive summary.....	3
4. Law firm signatories .....	4
4.1 Large law firm signatories .....	7
4.2 Smaller law firm signatories .....	9
5. Individual solicitor and barrister signatories.....	9
6. Conclusions and observations .....	11
APPENDIX 1: Target Signatories .....	12
APPENDIX 2: Statement of Principles .....	13

### **NATIONAL PRO BONO RESOURCE CENTRE**

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## **1. Background**

The National Pro Bono Resource Centre (**Centre**) launched the National Pro Bono Aspirational Target (**Target**) on 26 April 2007.

The Target is contained in a Statement of Principles (see Appendix 2). It is a voluntary Target of at least 35 hours of pro bono legal work per lawyer per year. It represents a minimum number of hours of pro bono legal work that all signatories aspire to undertake.

Key aims of introducing the Target were to raise the profile of a lawyer's professional responsibility to enhance access to justice for those who would not otherwise access legal assistance, to highlight the shared nature of that responsibility across the legal profession, and to provide a benchmark for the conduct of pro bono work.

Since the publication of the First Annual Performance Report on the Aspirational Target in September 2008, the number of legal professionals covered by the Target has nearly doubled. The Target continues to attract law firm signatories, which account for 99.6 percent of legal professionals covered by the Target. A list of signatories as at 30 June 2011 is contained in Appendix 1 of this report.

## **2. Methodology**

In July 2011, the Centre provided each signatory with a questionnaire to report their pro bono performance against the Target for the 2010/2011 financial year. The questionnaires varied for individual solicitors or barristers and law firms, however all signatories were asked to advise whether they had met the Target, and the impact of the Target on the pro bono legal work undertaken.

Between July and September 2011, signatories reported back to the Centre on their performance against the Target. These responses form the basis of this report. As in previous years, the Centre will contact those signatories who did not report on their pro bono performance prior to the publication of this report. Those who did not report on their performance in accordance with their obligations to the Target will be removed from the list of signatories.

### 3. Executive summary

The 2010/2011 financial year was marked by a steadfast pro bono performance of Target signatories and a steady increase in law firms signing up to the Target.

As at 30 June 2011, the Target had 66 signatories (being individual solicitors or barristers and law firms) and covered approximately 10.5 percent of the Australian legal profession.<sup>1</sup> There are now 5,888.9 full time equivalent (**FTE**) legal professionals covered by the Target, an increase of 4 percent since 30 June 2010. The number of signatories increased from 58 to 66 in the last financial year.

Between July and September 2011, 49 of the 66 signatories to the Target reported on their pro bono performance against the Target in the 2010/2011 financial year. Response rate by signatories was 72 percent, down significantly from 90 percent last year. Reporting signatories accounted for 5,540.4 legal professionals, being 94 percent of all legal professionals covered by the Target. Thirty-three out of 43 law firm signatories, covering 5524.4 legal professionals, reported on their pro bono performance. A total of nine individual barristers and solicitors did not report on their performance, one of whom appears to have ceased legal practice.

Twenty-five of the reporting 48 signatories indicated that they had met the Target, down to 52 percent from 65.4 percent last year.

Responses indicate that 5,535.4<sup>2</sup> FTE lawyers and barristers collectively undertook 220,497.2 hours of pro bono work, down 1.4 percent from 223,612 hours in 2009/2010. This equates to an average of 39.8 hrs per lawyer for the 2010/2011 financial year, up slightly from 39.5 hours per lawyer last year.

The responses from law firms, solicitors and barristers have been analysed separately below.

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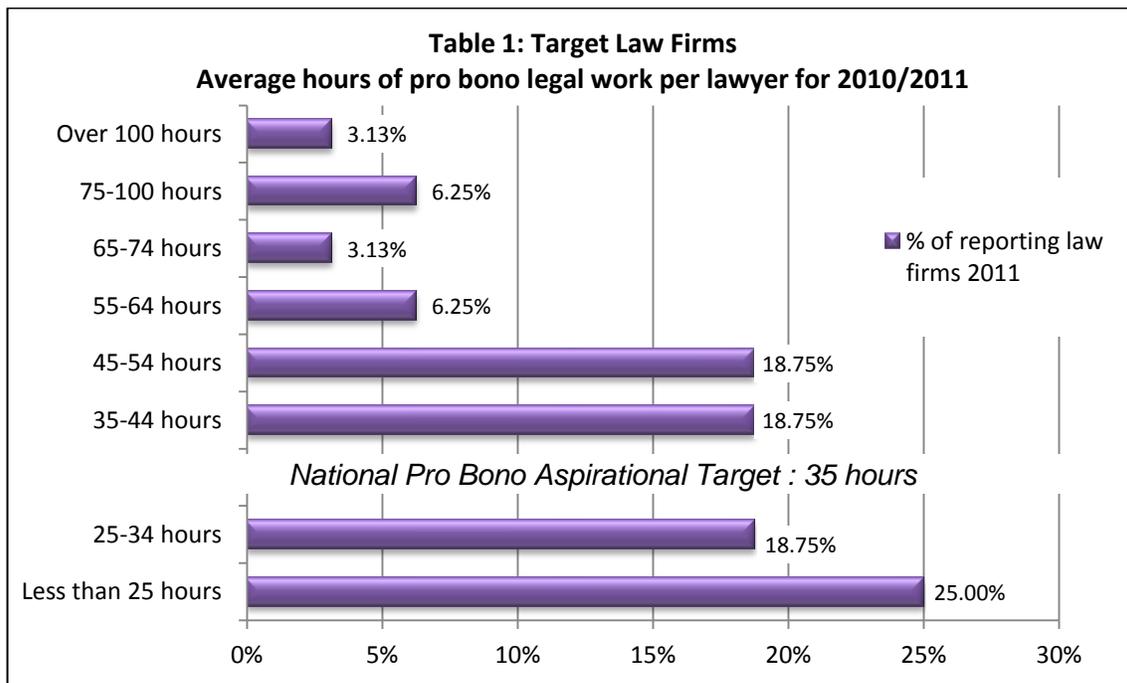
<sup>1</sup> As at July 2011, there were approximately 56,000 legal professionals in Australia: see speech given by Alexander Ward, President, Law Council of Australia, at the Law Council's discussion forum: "Constitutional Change: Recognition or Substantive Rights?" (22 July 2011) available at: [http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file\\_uuid=DA5FBE6C-937C-28E2-9859-DBF7EB554466&siteName=lca](http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=DA5FBE6C-937C-28E2-9859-DBF7EB554466&siteName=lca).

<sup>2</sup> These figures exclude the 10,000 pro bono hours provided by volunteer lawyers and secondees at the Human Rights Law Resource Centre (HRLRC). The HRLRC is a foundation signatory to the Target. Although its volunteers and secondees provide a significant amount of pro bono legal work, because it is a CLC its pro bono hours have been excluded from this report. When these hours are included, pro bono hours increase to 230,497.2 hours in 2010/2011, or an average of 41.6 hours per lawyer per year.

#### 4. Law firm signatories

Thirty-three signatory law firms (82.5%) reported on the Target, of which 15 (45.5%) indicated that they had met the Target. Collectively, 5,519.4 FTE lawyers undertook 218,902 hours of pro bono legal work in the 2010/2011 financial year<sup>3</sup>. This is equivalent to 122 lawyers working pro bono full-time for one year<sup>4</sup>, or an average of 39.7 hours per lawyer per year.

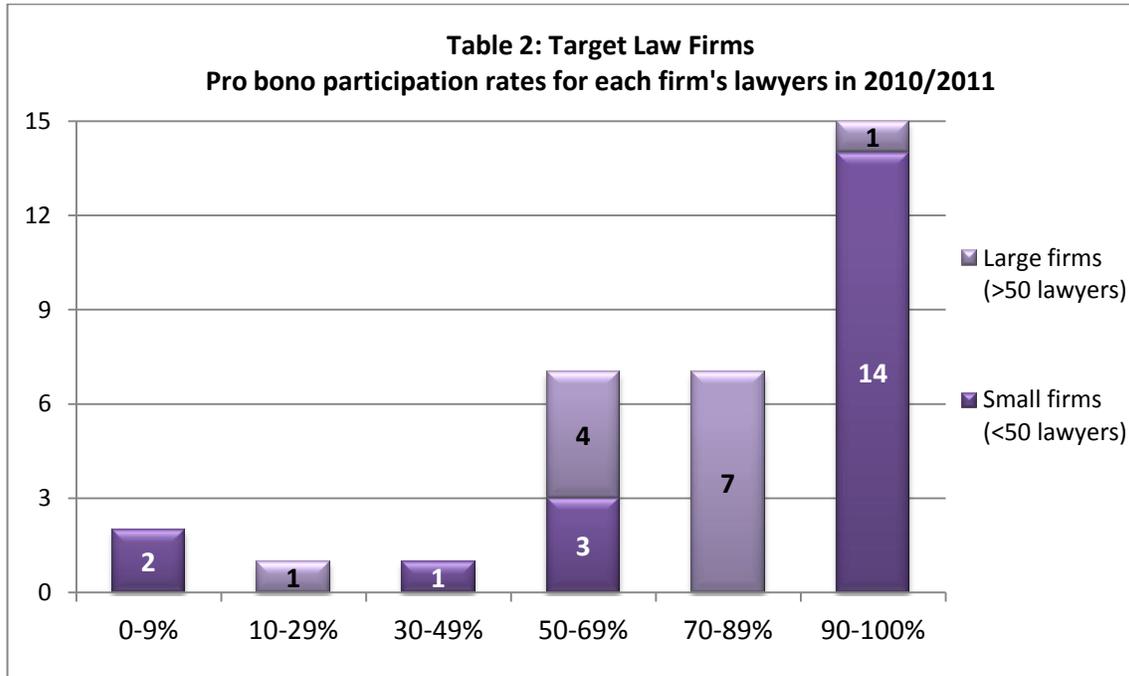
Although pro bono hours decreased by 1.4 percent from 221,943.7 hours in 2009/2010, the number of hours per lawyer rose slightly from 39.2 hours last year to 39.7 hours per lawyer this year. This may, in part, be attributed to the significant decrease in response rates by law firms, down from 100% last year, as well as external factors such as the economic downturn which led to reductions in legal staff at many signatory firms.



<sup>3</sup> See above no. 2.

<sup>4</sup> This figure is calculated based on a 37.5 hour working week over 48 weeks.

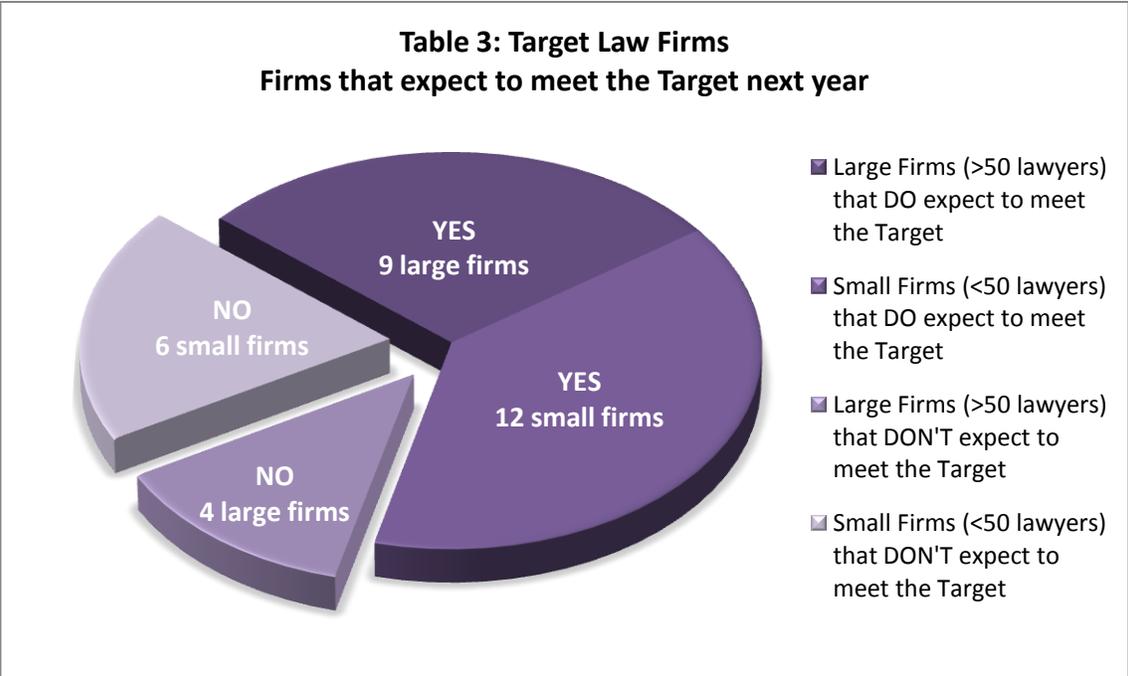
Participation rates by lawyers rose compared to the previous year. Across the 33 reporting firms, 69 percent of lawyers covered by the Target were involved in pro bono legal work at their firm during the 2010/2011 financial year, up from 66 percent last year.<sup>5</sup>



Performance against the Target varied broadly. As in previous years, the highest performing firm by hours per lawyer (240 hours) was a firm with less than five lawyers. Firms in the second highest performing category, that provided between 50-100 hours of pro bono legal work per lawyer per year, included four large law firms (each with more than 50 lawyers, and three firms with significantly more than 50 lawyers) and three small firms (with less than 5 lawyers).

On the question of whether the firms expected to meet the Target in the 2011/2012 financial year, the following responses were provided:

<sup>5</sup> Participation rates are calculated by dividing the total number of FTE lawyers in each firm by the number of lawyers in each firm who provided at least one hour of pro bono legal work in the 2010/2011 financial year.



The impact of the Target on each law firm’s pro bono practice varied markedly without reference to the size of each law firm, or the size or sophistication of its pro bono practice.

Firms were also asked to report on the effect of the Target.<sup>6</sup> Twelve firms indicated that the Target had no effect on their pro bono practice. A further 12 firms indicated that being a signatory to the Target led to an increase in the amount of pro bono work being done, and eight firms reported that the target increased their focus on the legal needs of disadvantaged people and the organisations that assist those people. Five firms reported other effects of the Target, including:

“The Target confirms a professional benchmark that we want to ensure that we exceed as a firm, and confirms that Pro Bono work is the responsibility of lawyers at all stages of their career.” (large firm)

“We were already meeting the target on a per lawyer on average basis when we became a signatory. We would prefer to see the target changed to a target per individual lawyer, rather than a target per lawyer on average” (large firm)

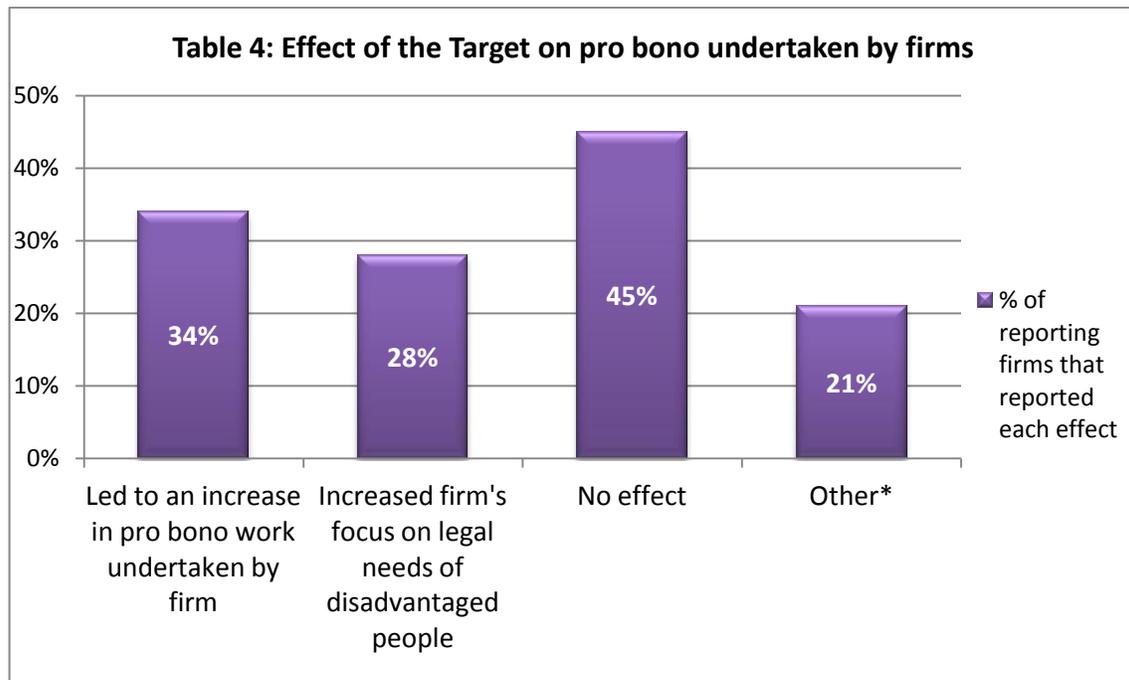
“The Target provided a well recognized reference point for partners to aspire to at a practice

<sup>6</sup> On the question of the effects of the Target, respondent firms were able to choose more than one option.

group level, not just a firm level, in an effort to encourage a greater commitment to pro bono work in some groups and to aim for a more equal spread of pro bono work across the firm.” (large firm)

“The Target is constantly in mind, as we include reference to it in our file opening forms.” (small firm)

“It is possible that the Target led to an increase in the pro bono work we were able to leverage from partner firms.” (small firm)



Law firm signatories fell within two distinct categories: those with more than 50 FTE lawyers, and those with 10 FTE lawyers or less, with only four reporting firms with between 10-49 lawyers. For the purposes of this report we have analysed the responses of large firms (more than 50 lawyers FTE) and smaller firms (less than 50 lawyers FTE) separately below.

#### 4.1 Large law firm signatories

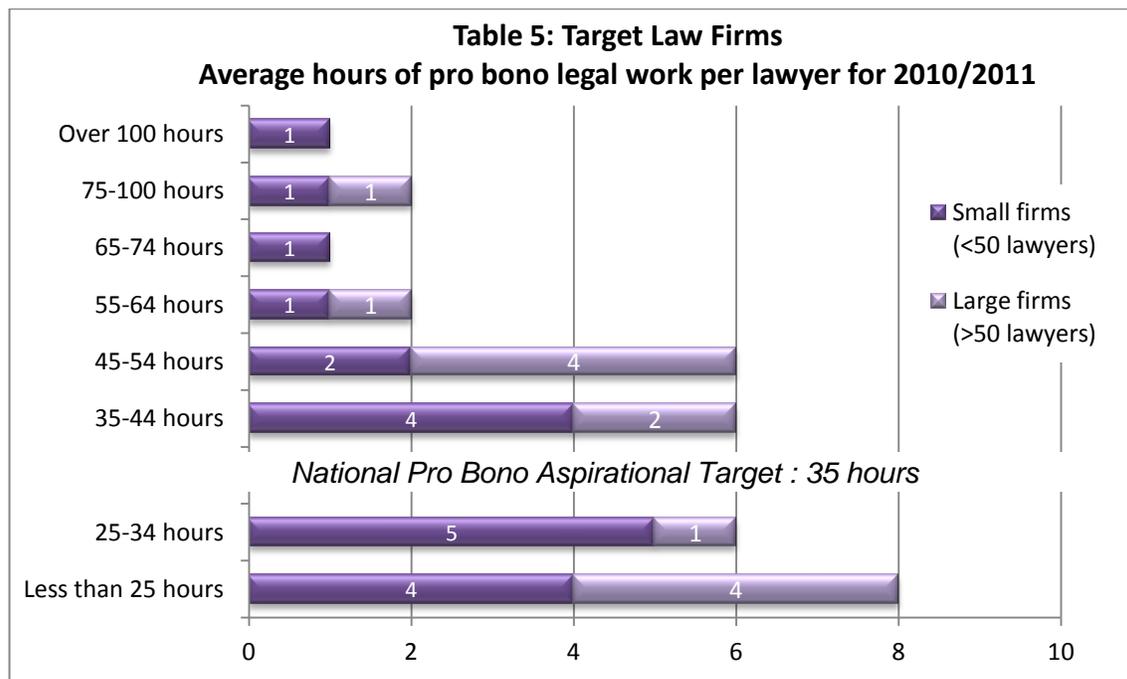
Thirteen firms with more than 50 lawyers reported on the Target this year.<sup>7</sup> Collectively, the 13 large law firm signatories employed 5374.9 FTE lawyers and undertook 214,963.2

<sup>7</sup> This year, the Target includes 15 law firm signatories with more than 50 FTE lawyers, up from 13 last year. However, two large law firm signatories failed to report on the Target in time.

hours of pro bono legal work, or an average of 40 hours per lawyer, up slightly from 39.4 hours per lawyer last year.<sup>8</sup>

Eight of the 13 firms met the Target and demonstrated an impressive pro bono contribution for the year. Despite accounting for only 68.7 percent of FTE lawyers at large law firms<sup>9</sup>, the eight firms collectively provided a total of 179,370 pro bono hours, or an average of 48.6 hours per lawyer per year, which was well above both the law firm average and the large law firm average. These eight large law firms which met the Target employed 3691.3 FTE lawyers, or 62.6 percent of all lawyers covered by the Target. Despite this, the lawyers employed by these firms undertook 81.3 percent of all pro bono hours recorded by Target signatories, and 83.4 percent of all pro bono hours recorded by large law firm signatories. These figures highlight the significant disparity that still remains between the contributions of large law firm signatories.

Remarkably, whilst seven of these eight law firm signatories reported reduced numbers of FTE lawyers employed in the 2010/2011 financial year<sup>10</sup>, their pro bono contributions remained steady. Participation rates increased considerably from 65.9 percent to 76.5 percent.



<sup>8</sup> Last year, 13 large law firm signatories collectively employed 5526.8 FTE lawyers and undertook 217,854 hours of pro bono legal work.

<sup>9</sup> Based on 3691.3 FTE lawyers in the eight large law firm signatories who met the Target.

<sup>10</sup> One of the eight firms signed up to the Target during the 2010/2011 financial year and therefore did not report to the Centre last year.

## 4.2 Smaller law firm signatories

Nineteen of the 27 smaller signatory firms (defined as those with less than 50 FTE lawyers) reported on the Target.<sup>11</sup> Of these, fifteen firms had less than 10 lawyers, two firms had between 10 and 20 lawyers, and two firms had between 35-49 lawyers.

Collectively these smaller firms provided 3,938.3 pro bono hours from 144.5 FTE lawyers, or an average of 27.25 pro bono hours per lawyer for the 2010/2011 financial year, down slightly from 33.1 hours per lawyer last year (see Table 5 above).<sup>12</sup>

Ten out of the 19 firms (52%) which reported met the Target. Collectively, these firms employed 27.5 FTE lawyers that provided a total of 1,913.8 hours of pro bono legal work or an average of 69.6 hours per lawyer per year.

The average participation rate at smaller firms was slightly higher than the overall law firm participation rate at 79 percent, although this may be, in part, attributed to the pool of sole practitioners in the smaller law firm category.

## 5. Individual solicitor and barrister signatories

Eight of the 11 individual solicitor signatories (72%) reported on their pro bono performance against the Target.<sup>13</sup>

Of those who reported, five solicitors (63%) met the Target, down from 72% in the 2009/2010 financial year. On average, each solicitor spent 92.3 hours undertaking pro bono work, compared with 114.5 hours in 2009/2010.

Eight of the 12 individual barrister signatories (66%) reported on the Target.<sup>14</sup> Of those who reported, seven (87.5%) indicated that they had met the Target, up from 71% in 2009/2010.

Collectively, the reporting barristers undertook 1,013.2 pro bono hours in the 2010/2011 financial year, or an average of 126.65 hours per barrister, up from 107.6

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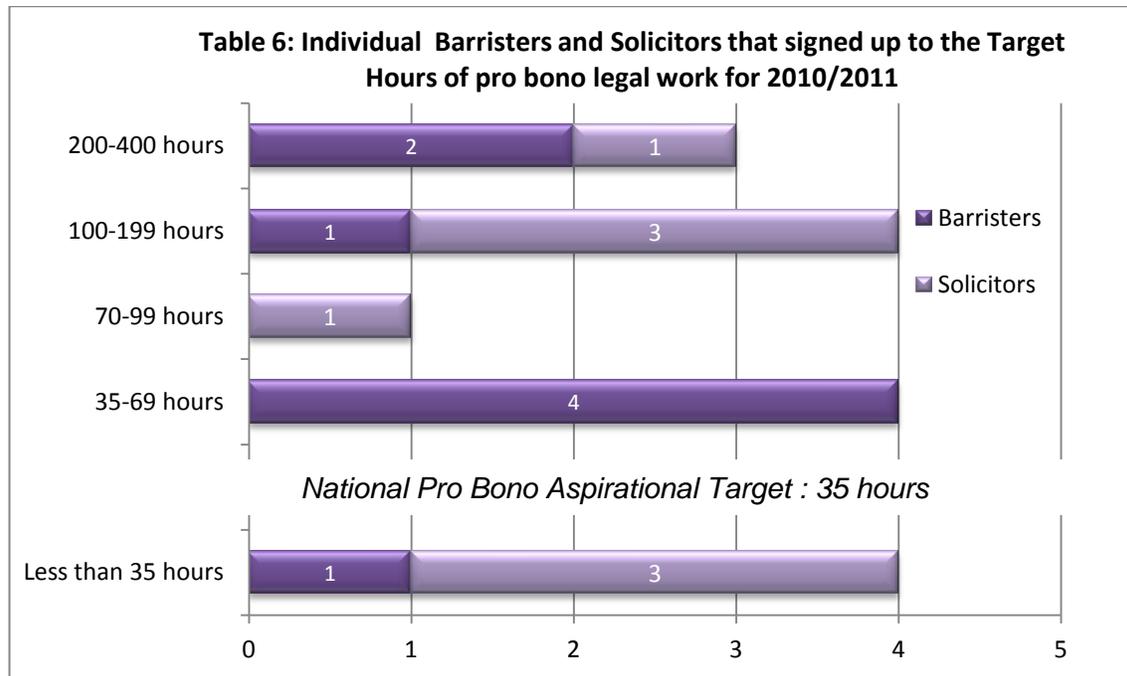
<sup>11</sup> This excludes the Human Rights Law Resource Centre, which also reported. See above no. 2.

<sup>12</sup> When the extraordinarily high pro bono hours of lawyers at the Human Rights Law Resource Centre are included, these figures increase to 13,938.3 pro bono hours undertaken by 149.5 FTE lawyers, or an average of 93.5 pro bono hours per lawyer for the 2010/2011 financial year.

<sup>13</sup> One of the remaining three solicitors indicated they no longer wished to be a signatory to the Target and declined to report, one failed to report and one appears to have ceased legal practice. If no response is received by October 2011, these solicitors will be removed from the list of target signatories.

<sup>14</sup> The four remaining barristers failed to report on their performance. If no report is received by the end of October 2011, these barristers will be removed from the list of signatories to the Target.

hours in 2009/2010. The barrister who did not meet the Target indicated that he expected to meet the Target in the next financial year.



Three of the reporting eight solicitors and two of the reporting eight barristers indicated that the Target had no effect on the pro bono work done. Two barristers and two solicitors reported that the Target increased the amount of pro bono work done, whilst one barrister reported the Target decreased the amount of pro bono work done. Two solicitors and two barristers indicated that the target increased their focus on the needs of disadvantaged people and the organisations that assist those people, and two solicitors and two barristers reported ‘other’ effects of the Target, including:

“The Target gave me a sense of validation and achievement. It’s good to be measured on my work! I’d do it anyway without the target.” (solicitor)

“Ensured awareness to keep providing and not ‘rest on laurels’ of any prior pro bono work.” (solicitor)

“The Target is encouraging.” (barrister)

## **6. Conclusions and observations**

During the 2010/2011 financial year, the number of signatories grew from 58 to 66 with the addition of five new law firms and three individual signatories to the Target.<sup>15</sup> The number of legal professionals now covered by the Target is 5,888.9, an increase of 4 percent.

Remarkably, whilst many signatories were affected by the economic downturn and reported reductions in the number of FTE lawyers, their overall pro bono contributions increased. There was also an increase in both the general participation rate, and especially in the participation rate of those firms who met the Target. This is a testament to the genuine and ongoing commitment of signatories to enhance access to justice for those who would not otherwise be able to access legal assistance.

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<sup>15</sup> The increase in law firm signatories, may, in part, be attributed to the introduction of reforms to the Commonwealth Government's procurement of legal services in 1 July 2009.

## Appendix 1: Target Signatories

As at 30 June 2010, the Target had the following signatories:

### Law Firm Signatories

Allens Arthur Robinson\*  
Allen & Overy\*\*  
Allygroup\*\*  
Aneesa Parker Pty Ltd  
Arnold Bloch Leibler\*  
Australian Government Solicitor  
Blake Dawson\*  
Brock Partners\*  
Bruce Thomas Lawyers\*\*  
Clayton Utz\*  
Corrs Chambers Westgarth  
DLA Phillips Fox (DLA Piper Australia)  
FoodLegal  
G & D Lawyers Pty Ltd  
Gelin Murdoch Spinks  
Gilbert+Tobin\*  
Henry Davis York  
HHG Legal Group  
Human Rights Law Resource Centre  
Lander & Rogers  
Logical Legal Solicitors\*  
Marsh and Maher  
McCullough Robertson  
McDonnell Schroder Solicitors\*  
McInnes Wilson Lawyers  
McMillan Boylson\*  
McPhee Lawyers\*  
Meyer Vandenberg  
Minter Ellison  
Moulis Legal  
Rostron Carlyle  
Russell Kennedy\*\*  
Ryan Lawyers\*  
Sarah & Associates\*  
Siracusa Legal

Slattery Thompson\*  
Stella Stuthridge & Associates  
Talbot Olivier\*\*  
Winn Legal\*  
Zeeman & Zeeman

### Individual signatories

Alexandra Rose\*\*  
Alexandra Wolfsohn  
Anthony Jucha\*  
Ashok Kumar  
Craig McIntosh\*  
Daniel Matta  
Fiona McLeod S.C.\*\*  
F.J. Purnell S.C.  
Graham Jones\*  
Helen McGowan  
Julia Lonergan\*  
Michael Tucak  
Nerida Wallace  
Nicholas Linke  
Nick Eastman  
Noeline Rudland\*  
Paul Kerr  
Philip Greenwood  
Richard Clarke  
Richard Thomas\*  
Robert Cook\*\*  
Simon Freitag\*  
Stephen Rees\*  
Terence O'Riain\*\*

\* indicates Foundation Signatories

\*\* indicates those signatories that signed up between 1 July 2010 and 30 June 2011

## **Appendix 2: Statement of Principles**

### **Law Firm Statement**

MINDFUL of the professional responsibility of all lawyers to provide pro bono legal services to address the unmet legal needs of the poor and disadvantaged in the communities in which we live, and

RECOGNISING that pro bono is not a substitute for the proper funding by government of Legal Aid agencies, Community Legal Centres and other government funded legal services.

OUR FIRM is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary target described below.

- Our firm recognises its professional obligation to provide pro bono legal services.
- In furtherance of that obligation, our firm agrees to encourage and support the provision of pro bono legal services by all its lawyers.
- We agree to use our best efforts to ensure that, by no later than 30 June in each year, first year ending 30 June 2008, our firm's lawyers will undertake an average of a minimum of 35 hours of pro bono legal services each year per lawyer.
- In furtherance of these principles, our firm also agrees:
  - To provide training and supervision as required to enable our lawyers to meet the need for pro bono legal services in the community in matters undertaken by our firm, and
  - To monitor the firm's progress towards the targets established in this statement and to report its progress annually to the partners and staff of the firm and to the National Pro Bono Resource Centre.
- We acknowledge that when a lawyer provides pro bono legal services, he or she owes the pro bono client the same professional and ethical obligations that are owed to any paying client and accordingly the lawyer must give that work the same priority, attention and care as would apply to paid work.

### **Individual Lawyer (Solicitor or Barrister) Statement**

MINDFUL of the professional responsibility of all lawyers to provide pro bono legal services to address the unmet legal needs of the poor and disadvantaged in the communities in which we live, and

RECOGNISING that pro bono is not a substitute for the proper funding by government of Legal Aid agencies and Community Legal Centres.

- I am pleased to join with other lawyers across the country in subscribing to the following statement of principles and in pledging my best efforts to achieve the voluntary target described below.
- I recognise my professional obligation to provide pro bono legal services.
- I agree to use my best efforts to ensure that, by no later than 30 June in each financial year, first year ending 30 June 2008, I will undertake a minimum of 35 hours of pro bono legal services each year.
- In furtherance of these principles, I also agree to monitor my progress towards the target established in this statement and to report annually to the National Pro Bono Resource Centre (the Centre) whether I have met the Target in the previous year.
- I acknowledge that when I provide pro bono legal services, I owe the pro bono client the same professional and ethical obligations that are owed to any paying client and accordingly I must give that work the same priority, attention and care as would apply to paid work.

## Reporting

Each signatory should have in place systems to ensure that accurate records are kept of the pro bono work done. It is recognised that in exceptional circumstances the amount of pro bono legal work undertaken by a particular lawyer may need to be estimated by that person or his or her firm, for example pro bono coordinators spend time doing both vital administrative and pro bono legal work and are unlikely to record each separately.

In July each year the Centre will send to each signatory an email attaching a standard form which is to be completed and returned to the Centre.

Where lawyers are not in firms for the full year, the average figure to be worked out for a firm should be based on the number of full-time equivalent lawyers in the firm for the year. For a firm "lawyer" includes a law graduate and thus their pro bono hours can be counted.

The National Pro Bono Resource Centre intends to publish, within three months of the end of each year, in the categories of law firm, solicitor and barrister, the number of signatories and the percentage that have met the Target in the previous year in each category. It is NOT proposed to publish the names of those signatories that have met or not met the target.

*These Statements were developed by the Australian National Pro Bono Resource Centre in 2006 and incorporate, in part, language developed by the US Pro Bono Institute and utilized in its Law Firm Pro Bono Challenge SM. That language is used with the specific permission of the Institute and cannot be further utilized, copied, disseminated, or adapted, in whole or in part, without prior written permission from the Institute. To request permission please contact the Institute at [probono@probonoinst.org](mailto:probono@probonoinst.org).*