



REPORT EXTRACT

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Fourth National Law Firm Pro Bono Survey

Australian firms with fifty or more lawyers

Final Report

December 2014

National Pro Bono Resource Centre

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About the NATIONAL PRO BONO RESOURCE CENTRE

The **National Pro Bono Resource Centre** is an independent centre of expertise that aims to grow the capacity of the Australian legal profession to provide pro bono legal services that are focused on increasing access to justice for socially disadvantaged and/or marginalised persons, and furthering the public interest.

While the **Centre** does not provide legal advice, its policy and research work supports the provision of free legal services and informs government of the role that it can play to encourage the growth of pro bono legal services. The **Centre's** work is guided by a board and advisory council that include representatives of community legal organisations, pro bono clearing houses, the private legal profession, universities and government.

Established in 2002 as an independent, not-for-profit organisation at the University of New South Wales, it was envisaged that the **Centre** would:

*“Stimulate and encourage the development, expansion and co-ordination of pro bono services, as well as offering practical assistance for pro bono service providers (and potential providers). The **Centre** would play the key roles of facilitating pro bono practice and enabling the collection and exchange of information.”*

The strategies that the **Centre** employs to grow pro bono capacity include:

Strengthening the place of pro bono legal work within the Australian legal profession as an integral part of legal practice by

- being a leading advocate for pro bono legal work;
- promoting the pro bono ethos and increasing the visibility of pro bono legal work;
- developing policies and advocating for measures to encourage an increase in the quality and amount of pro bono legal work; and
- producing resources and sharing information in Australia, regionally and internationally, that builds pro bono culture in the Australian legal profession and participation by Australian lawyers in pro bono legal work.

Providing practical assistance to facilitate, and remove barriers to, the provision of pro bono legal services by

- undertaking research on how pro bono legal assistance can best respond to unmet legal need, including the identification of best practice in its provision;
- engaging in policy development, advocacy and law reform on issues that have an impact on pro bono legal services;
- providing practical advice to lawyers and law firms to support their efforts to increase the quantity, quality and impact of their pro bono work;
- informing community organisations about the way pro bono operates in Australia; and
- leading in the development of new and innovative pro bono project and partnership models.

Promoting the pro bono legal work of the Australian legal profession to the general public by

- informing members of the public through the media and presentations about the pro bono legal work undertaken by members of the Australian legal profession.

The **National Pro Bono Resource Centre** operates with the financial assistance it receives from the Commonwealth and State and Territories Attorney-General Departments, and support from the Faculty of Law at the University of New South Wales.

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Executive summary

The fourth biennial National Law Firm Pro Bono Survey is the latest addition to the longitudinal study that the Centre is building of the pro bono legal work of large Australian law firms.

This Final Report is based on data collected from 41 of the 55 firms with 50 or more full-time equivalent (**FTE**) lawyers as at 30 June 2014, including 24 of the 25 largest firms, in relation to the financial year ending 30 June 2014.

The results of the 2014 Survey indicate that the overall pro bono performance of respondent firms increased to 31.7 hours of pro bono legal work per lawyer per year, from 29.9 in 2012. Contributors to this growth include an increase in the number of firms which have active pro bono practices, as well as some significant improvements in pro bono performance. Thirteen respondents reported an increase of more than 20 percent since 2012 in hours of pro bono legal work per lawyer per year, with only four firms reporting a decrease of more than 20 percent.

The period since the last survey in 2012 is notable for the dynamic law firm environment in Australia and an increasingly competitive legal services market. This was evidenced by close to 30 percent of respondent firms indicating that they had been through a merger in the last four years and 20 per cent of respondent firms indicating they are now “international law firms”; that is, they employ more lawyers overseas than in Australia. Some firms provided comment on the effect of these changes on the pro bono practice within their firm.

One concerning trend revealed by the Survey is the apparent change in the way firms provide recognition to their lawyers for the pro bono legal work they undertake. Billable hour credit and other forms of recognition are key ways in which a firm’s leadership can show that it values pro bono legal work and encourages its lawyers to undertake pro bono legal work.

The number of firms that recognise pro bono legal work with full billable hour credit has fallen to 40 percent of firms, however, from 51 percent in 2012 and 64 percent in 2010. There were also decreases in the percentage of firms that recognised pro bono legal work in other ways, for example, in performance appraisals, promotion or advancement and in salary reviews. Given that many respondents also indicated in this Survey that a lack of management and partner support is the greatest threat to the success of their pro bono program, further discussion to identify and promote best practice would seem to be warranted.

The responses also identify other vital aspects of building a sustainable and resilient pro bono practice, all of which rely on having a strong, firm-wide pro bono culture. However, despite the overall increase in hours of pro bono legal work per lawyer, the Survey results actually suggest that on average the pro bono legal work of large firms is being undertaken by a smaller number of lawyers within each firm. In 2014 the overall reported participation rate was 50 percent, compared to 53 percent in 2012 and 59 percent in 2010.

The results reported in relation to secondments are also consistent with falling participation rates. While the number of firms providing secondments remained steady, 61 percent of these firms reported providing more secondments (in hours) than they were two years ago. Analysis of individual firms' responses on secondments and lawyer participation rates suggest a possible explanation for why the average number of hours of pro bono legal work per lawyer per year is rising while the number of lawyers participating in pro bono legal work is falling; that is, the maintenance or increase of pro bono hours through the use of secondments.

Respondents to the Survey also reported 48.4 FTE "dedicated pro bono lawyers" (lawyers engaged on a full-time or permanent part-time basis whose key responsibility is to undertake or manage pro bono legal work) and 11.8 FTE other dedicated staff.

As in 2012, the 2014 Survey results indicate that large firms continue to undertake more pro bono legal work for organisations (65%) rather than for individuals (35%). This reflects the Survey's finding regarding the areas of law where most pro bono legal work is being done, and the areas in which large corporate firms have the most expertise, but also raises questions about where the balance should lie between pro bono legal work for organisations and individuals.

The **Chapter highlights** below provide a further overview of the Final Report. The raw Survey data is available in **Appendix 1**.

December 2014

*This is an extract of the **Final Report on the Fourth National Law Firm Pro Bono Survey of Australian firms with fifty or more lawyers**. For the **full report** please visit www.nationalprobono.org.au.*

Chapter highlights

Chapter 1: Respondent firms (*page 13*)

The sample size for the Survey increased from 36 firms in 2012 to 41 firms in 2014, partly as a result of an increase in the number of law firms with 50 or more FTE lawyers since 2012 (51 in 2012 and 55 in 2014). Twenty-four of the 25 largest firms in Australia responded to the Survey.

As in previous years, the respondent firms fell naturally into three size groupings:

- **Group A:** firms with 450 - 1,000 FTE lawyers;
- **Group B:** firms with 201 - 449 FTE lawyers; and
- **Group C:** firms with 50 - 200 FTE lawyers.

Twelve out of 41 firms had been involved in a merger in the previous four years, compared to ten out of 36 in 2012 (in the previous two years). Eight of the 41 respondent firms (20%) indicated that they were “international law firms” (firms that had more staff located overseas than in Australia).

Chapter 2: Measuring the amount of pro bono legal work (*page 21*)

A number of metrics are used for measuring pro bono legal work.

- **Total hours of pro bono legal work**
In 2014, 41 respondents performed 374,942 hours of pro bono legal work compared to 36 respondents reporting 343,058 hours in 2012 and 29 respondents reporting 322,343 hours in 2010.
- **Hours of pro bono legal work per lawyer per year**
In 2014 the overall number of hours of pro bono legal work per lawyer per year was 31.7 hours, an increase from the 29.9 hours reported in 2012 and 29 hours in 2010.

By group, the hours of pro bono legal work per lawyer per year were as follows:

- **Group A:** 41.3 hours (2014), 38 hours (2012) and 41.5 hours (2010);
- **Group B:** 25.7 hours (2014), 20.4 hours (2012) and 22.5 hours (2010);
and
- **Group C:** 17.6 hours (2014), 15.7 hours (2012) and 27.2 hours (2010).

Of the 31 respondents to the 2014 Survey that also responded to the 2012 Survey and provided figures on their hours of pro bono legal work per lawyer per year, 13 reported an increase of more than 20% between 2012 and 2014 and four reported a decrease of more than 20% over the same period.

- **Participation rates**

In 2014 the average participation rate fell to 50 percent from 53 percent in 2012 and 59 percent in 2010. The average partner participation rate, reported for the first time in 2014, was 40 percent.

- **Percentage of total practice hours**

Hours of pro bono legal work expressed as a percentage of total practice hours reported by respondent firms ranged from close to zero to 6.31 percent, with an average of 2.27 percent. This question had not been asked in previous Surveys.

Chapter 3: Matching pro bono legal work with unmet legal need (page 33)

There are different factors that need to be considered when matching pro bono legal work with unmet legal need, including areas of law and practice, the type of client (individuals vs organisations) and the source of requests for pro bono legal assistance.

- **Areas of law and practice**

The trend in relation to areas of law and practice remained similar to previous years, with “Employment Law”, “Governance”, “Commercial Agreements”, “Deductible Gift Recipient Status (DGR) Applications” and “Intellectual Property” (in descending order) being nominated as the top five areas of law and practice in which firms spent time providing pro bono legal services.

As in 2012 and 2010 “Family Law (not including Family Violence)” was the area where the highest number of firms reported rejecting the most requests for assistance. “Criminal Law” was the second most rejected area.

- **Clients: organisations or individuals?**
As in 2012 the majority of pro bono legal work was provided to organisations (65%) as opposed to individuals (35%).
- **Sources of pro bono legal work**
The sources of pro bono legal work for respondent firms were similar to in 2012. Pro bono legal work was sourced from “pro bono referral schemes and organisations” (27% in 2014 and 31.5% in 2012) and “other community legal centres” (18% in 2014 and 16% in 2012). However, the highest proportion was sourced through “other sources” (55% in 2014 and 52.5% in 2012). These included direct requests, internal projects and referrals from other organisations.
- **Working with in-house counsel**
Eleven firms (27%) had worked with the in-house counsel of one or more corporate clients on a pro bono matter or project in the 2014 financial year. Seventeen firms (41%) had not or did not know, but had discussed potential opportunities with corporate clients.

Chapter 4: Organisation and coordination of pro bono legal work within firms (page 48)

A number of factors inform the degree of coordination and organisation of a formal pro bono practice:

- **Pro bono policies and committees**
As in previous years, almost all respondents had a written pro bono policy. In 2014, 28 firms (68%) answered “yes” when asked if they had a Pro Bono Committee, a significant increase when compared to previous Survey years.

In 2012, 14 firms (39%) had a Pro Bono Committee that was “responsible for the coordination of pro bono legal work”. In 2010, ten firms out of 28 (36%) had a Pro Bono Committee “responsible for the coordination of pro bono legal work” and in 2008 it was ten out of 25 firms (40%). The differences may be partly attributable to a change in the Survey question.
- **Coordination and dedicated pro bono lawyer (and other staff) resources**
Thirty-eight of 41 respondent firms (93%) had a person with primary responsibility for pro bono legal coordination in 2014, similar to 2012 (35 out of 36 respondent firms, or 97%).

In 2014, 23 respondent firms reported 48.4 FTE “dedicated pro bono lawyers” (lawyers engaged on a full-time or permanent part-time basis whose key responsibility is to undertake or manage pro bono legal work) and 11.8 FTE other dedicated staff. A “dedicated pro bono lawyer” was most likely to be at the level of associate/lawyer.

- **Secondments**

A similar number of firms provided secondments in 2014 (18 firms, 44%) as in 2012 (19 firms, 53%). Eleven of these firms (61%) provided more secondments than in 2012 while only three (17%) provided fewer.

Analysis of a number of individual firm’s responses suggests an inverse correlation between secondments and participation rates. In general terms, firms with the highest participation rates were providing fewer than, or the same amount of, secondments as they did two years earlier, whereas firms providing more secondments were likely to have lower participation rates.

- **Budgets and targets for pro bono legal work**

Most firms (76%) set a target or budget for their pro bono program. This result was similar to 2012 (75%) but higher than in 2010 (66%). Over half of the respondent firms (61%) indicated that their target or budget was “larger” than in 2012. Over two thirds of firms (68%) that set a budget or target had a nominal target as opposed to a maximum or minimum. Most firms (65%) set their budget or target based on hours rather than funds.

- **Billable hours and financial targets: treatment of pro bono legal work**

The majority of firms required their lawyers to meet billable hour targets, with or without financial targets (95%), similar to responses received in 2012 and 2010. The number of firms that recognise pro bono legal work with full billable hour credit has decreased from 64 percent in 2010 and 51 percent in 2012 to 40 percent in 2014.

Of the respondent firms, four firms (12%) changed their recognition of hours of pro bono legal work from full billable hour credit to a special non-billable category (with a lower or negligible value for financial targets, if applicable).

- **Evaluation of pro bono programs**

As in 2010 (58%) and 2012 (56%) most firms (54%) reported having a system for evaluating their pro bono program as a whole. Firms were asked to identify the three most significant factors on which they based their evaluation. The most nominated factor was “participating lawyer satisfaction” (82%), followed by

“client feedback” (55%), “social impact” (41%) and “feedback from third parties (for example, pro bono referral schemes or organisations)” (41%).

Over half of the respondent firms (54%) indicated that they considered that the development by the Centre of a qualitative evaluation tool for evaluating the impact of pro bono projects and programs would be “very useful”.

Chapter 5: Issues which impact on pro bono programs (page 64)

Management and partner support was cited as a crucial factor in the success of a firm’s pro bono program by the highest number of respondents and the lack of such support as one of the greatest threats.

When asked to nominate their top three challenges, “firm capacity” was identified by the most number of respondents. “Concern about conflicts of interest with fee paying clients” and “insufficient expertise in relevant areas of the law” were the next most cited challenges.

Other factors cited in the success of a pro bono program included the importance of individual lawyers having time to undertake pro bono legal work, the commitment of a firm’s lawyers to pro bono, the integration of pro bono legal work into a firm’s operation and the degree of organisation of the pro bono program.

Chapter 6: External influences (page 70)

A number of external influences impact on pro bono legal work.

- **National Pro Bono Aspirational Target**

In the 2014 Survey, signatories to the National Pro Bono Aspirational Target (**Target**) generally reported higher hours of pro bono legal work per lawyer per year than non-signatories (34.6 hours compared to 14.5 hours) and higher participation rates (54% compared to 33%).

In the [*Seventh Annual Performance Report on the National Pro Bono Aspirational Target*](#), released by the Centre in October 2014, 37.7 percent of respondent firms indicated that the Target had led to an increase in the pro bono legal work undertaken by their firm and 55.1 percent of respondent firms indicated that the Target increased the firm’s focus on the legal needs of disadvantaged people and the organisations that assist these people.

- **Government tender arrangements for legal services**

Eighty-eight percent of respondents believed that the pro bono conditions in the Commonwealth and Victorian Government tender arrangements were useful in encouraging firms to undertake pro bono legal work.

The number of respondent firms that were listed on the Commonwealth Legal Services Multi-use List increased from 64 percent of respondents in 2012 (23 out of 36 firms) to 88 percent in 2014 (36 out of 41 firms). The number of respondent firms that were members of the Victorian Legal Services Panel (17 firms, 41%) was similar to 2012 (16 firms, 44%).

Chapter 7: Pro bono assistance in specific contexts (page 76)

Firms were asked about pro bono legal assistance in specific contexts:

- **Pro bono legal work in regional, rural and remote (RRR) areas**

Less than half of the respondents (17 firms, or 41%) reported undertaking pro bono legal work that was focussed on need in RRR areas, similar to 2012 (16 firms, or 44%) and 2010 (13 firms, or 45%). Of these firms, only eight firms (47%) did so on an outreach basis.

- **International pro bono legal work**

Despite increasing globalisation, the number of firms undertaking international pro bono legal work has not changed dramatically, with 14 firms (34%) in 2014, 12 firms (24%) in 2012 and 12 firms (31%) in 2010 engaging in international pro bono legal work. Of the firms that undertook international pro bono legal work, only six firms (43%) did so on an outreach basis.

Acknowledgments

The Centre wishes to thank:

- All of the law firms that participated in the Survey;
- The law firm pro bono partners, coordinators and staff of pro bono clearing houses who provided valuable input into the Survey questionnaire; and
- Daniel Jacobs (Project Officer) and Afton Fife (Policy Officer), who prepared the Survey and wrote the Final Report, with support from other staff and interns at the National Pro Bono Resource Centre: Leanne Ho, Lucy Martin, Lily Liu, Brian Lee and Sean Bowes.

Methodology

This is the fourth National Law Firm Pro Bono Survey conducted by the Centre, which is conducted every two years and forms part of a longitudinal study of pro bono legal work performed by large law firms in Australia. The previous Surveys were conducted in 2008, 2010 and 2012. The questionnaire was developed by the Centre to obtain a picture of pro bono legal work in Australia undertaken by large law firms and to elicit information about practice and policy issues.¹

The Survey was conducted online using software provided by SurveyMonkey™.²

The Centre identified law firms in Australia with 50 or more FTE lawyers, who were then approached and encouraged to participate. Emails were sent to nominated pro bono contacts in each firm providing a link to the online Survey.³ Survey data could be provided anonymously, but all firms had the opportunity to identify their firm to the Centre in their response and most chose to do so. Those firms that are signatories to the National Pro Bono Aspirational Target (**Target**) also had an opportunity to report on the Target in conjunction with the Survey. All Survey responses are treated as confidential, and all data is provided in this report in a de-identified form.

Certain words and terms were defined in the Survey for the benefit of respondents, and clicking on any of these highlighted terms in the Survey produced a definition. Definitions can be found in **Appendix 2: Glossary of Terms** on page 114.

Where possible, the results of this survey are compared with the results of previous Surveys in 2012, 2010 and 2008.

An [Interim Report](#) on the Survey was published in October 2014, featuring a brief overview of a selection of the data collected.⁴

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¹ The Centre also sought comment and advice from law firm pro bono coordinators at several stages during the drafting of the questionnaire. The Centre wishes to thank all those who provided valuable feedback.

² <http://www.surveymonkey.com>

³ Respondents could also choose to complete a paper version of the survey.

⁴ One survey questionnaire was returned to the Centre after the [Interim Report](#) was published, which has resulted in differences between the figures in the Interim Report and this report.