



– National Survey –

**Report on the pro bono legal work of individual  
Australian Barristers**

**November 2008**

**Appendix III**

**State analysis – New South Wales**

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## Survey details

Fifty-eight barristers from New South Wales responded to the survey, representing 2.8% of the State's barristers.<sup>1</sup> Overall, 355 barristers across the country completed the survey, which represents approximately 7% of the total profession.<sup>2</sup>

This appendix presents responses to all survey questions in charts, as well as key findings and issues that emerged from the overall responses of the 58 barristers in New South Wales who completed the survey. Some of this data is compared against the overall national data but also data from Queensland and Victoria.

The survey asked questions about:

- Respondent barristers (state and geographic location, age, gender, years of practice, level of seniority);
- Barristers who do pro bono;
- How much pro bono work is done (including a breakdown of pro bono assistance and whether such work is increasing);
- Areas of usual practice and areas of pro bono practice;
- Type of pro bono work (e.g. advice, litigation, law reform work);
- Basis on which the work was undertaken (free, reduced fee);
- Volunteering;
- Recipients of pro bono services;
- Sources of referrals;
- Record keeping;
- Legal Aid work; and
- Barriers to pro bono legal work.

Also, respondents were asked more generally about their attitudes towards pro bono work, Legal Aid and aspirational targets. At the end of the survey, respondents were invited to

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<sup>1</sup> Total number of barristers in New South Wales is 2,043. Based on the Law Council of Australia's (LCA) estimate of Constituent Bodies membership numbers in January 2008 – communications with the LCA, September 2008.

<sup>2</sup> Number of barristers in Australia based on the Law Council of Australia's (LCA) estimate of Constituent Bodies membership numbers in January 2008 – communications with the LCA, September 2008.

make additional comments about their pro bono work. The responses to these open-ended survey questions have been compiled and included in **Part 2: Issues**.

## Key findings

- Eighty-eight percent of respondents in New South Wales had spent time doing pro bono legal work, compared with 87% of barristers nationally and 88% in Queensland and Victoria.
- Thirty-nine percent of New South Wales respondents had done more pro bono work in the last 12 months than in the previous 12 months. Thirty-three percent reported no change in the amount of pro bono legal work and 20% had done fewer hours of pro bono legal work in the past 12 months than in the previous 12 months. These figures are in keeping with the national results. It is worth noting though, that only 39% of barristers in New South Wales reported keeping records of their pro bono work, thus many of the responses are recollected rather than recorded.
- New South Wales barristers reported doing a median of 41-50 hours of pro bono work in the last 12 months, on par with their colleagues nationally. This is slightly less than in Victoria and Queensland, where barristers reported doing between 51-70 hours of pro bono in the last 12 months. Nine New South Wales respondents (18%) reported doing more than 90 hours per year.
- The source of new pro bono matters most commonly nominated by respondents was direct request from a solicitor (45%), which was also the most commonly nominated source of referral nationally. This was followed by referral from the Bar Legal Assistance Scheme (41%), and direct requests from a family member or friend (33%).
- The areas of law in which the greatest percentage of barristers had provided pro bono legal services in the last 12 months were criminal law (51%)<sup>3</sup>, litigation (27%), immigration (23%) and administrative/constitutional law (21%). The data indicates

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<sup>3</sup> When taking into account those respondents who did not do pro bono legal work in the last 12 months, 45% of all respondents reported doing pro bono in the area of criminal law.

that New South Wales barristers go outside of their normal area of practice to provide pro bono legal services, with only 40% of all respondents (including the ones who did not do pro bono legal work) indicating that they practice in the area of criminal law. Nationally, the areas of law in which the greatest number of respondents had provided pro bono legal services were litigation (58%); company/commercial law (49%), administrative/constitutional law (43%) and criminal law (36%).

- Ninety percent of respondents had provided pro bono legal work in the form of verbal advice, followed by representation before a court or a tribunal (80%) and drafting of documents (63%). This is similar to findings nationally, as well as in Victoria.
- Eighty-six percent of respondents undertook pro bono legal work for individuals, whilst 37% undertook pro bono legal work for community legal centres (CLCs) and a further 33% for other not-for-profits.
- The main obstacle to doing pro bono legal work was ‘lack of time’ (64%), followed by ‘lack of a solicitor to assist with the matter’ (40%) and ‘insufficient expertise in relevant areas of the law’ (21%). This is in keeping with the responses nationally and from Victoria and Queensland, although ‘the cost of disbursements involved’ was the third most nominated barrier (19%) by Queensland barristers, higher than in New South Wales and Victoria.
- Ninety-one percent of respondents agreed that barristers should do pro bono work, which is higher than the number of respondents in the survey who had done pro bono legal work in the last 12 months. The top two factors nominated as reasons for doing pro bono work were helping the socially disadvantaged or marginalised (88%) and a sense of professional responsibility (66%). These figures are consistent with responses from both Victoria and Queensland, as well as nationally.
- Only 14% of respondents were aware of the National Pro Bono Aspirational Target (‘the Target’) of 35 hours per lawyer per year, compared with 15% of respondents in Victoria, 13% of respondents in Queensland and 17% of respondents nationally.

- Thirty-one percent of respondents had done Legal Aid work in the last 12 months, with the mean percentage of a respondent's time dedicated to legally aided clients being 11-20%. By comparison, 52% of Queensland respondents had done Legal Aid work in the last 12 months, with the mean percentage of time dedicated to legally aided clients being also significantly higher at 21-50%. In Victoria, 34% of respondents reported doing Legal Aid work, with the median percentage of a respondent's time dedicated to legally aided clients being 6-10%.
- Thirty-nine percent of New South Wales barristers had volunteered legal assistance at a community organisation, compared with 19% in Victoria, 41% in Queensland and 28% nationally.

## Part 1: Survey results

### Section 1 – About you

1. How long have you been admitted to practice?

Admitted to practice	No. of respondents	%
Less than 1 year	2	3%
1-2 years	1	2%
3-5 years	4	7%
6-10 years	7	12%
11-20 years	18	31%
21-30 years	21	36%
Over 30 years	5	9%
<b>Total</b>	<b>58</b>	<b>100%</b>

Median: 11-20 years.

2. How long have you been at the Bar?

Time at the Bar	No. of respondents	%
Less than 1 year	7	12%
1-2 years	5	9%
3-5 years	10	17%
6-10 years	8	14%
11-20 years	14	24%
21-30 years	9	16%
Over 30 years	5	9%
<b>Total</b>	<b>58</b>	<b>100%</b>

Median: 6-10 years.

3. How old are you?

Age	No. of respondents	%
26-30	2	3%
31-40	14	24%
41-50	16	28%
51-60	19	33%
61 or over	7	12%
<b>Total</b>	<b>58</b>	<b>100%</b>

Median: 41-50 years.

4. Are you...?

<b>Gender</b>	<b>No. of respondents</b>	<b>%</b>
Male	40	69%
Female	18	31%
<b>Total</b>	<b>58</b>	<b>100%</b>

Section 2 – About your job

1. What is your position?

<b>Position</b>	<b>No. of respondents</b>	<b>%</b>
Queen's counsel	2	3%
Senior counsel	5	9%
Senior Junior counsel	22	38%
Junior counsel	21	36%
Reader	7	12%
Other	1	2%
<b>Total</b>	<b>58</b>	<b>100%</b>

Other: Academic.

2. Where are your chambers located?

<b>Location</b>	<b>No. of respondents</b>	<b>%</b>
Capital city CBD	46	79%
Capital city suburb	5	9%
Regional city or area	3	5%
Rural area	3	5%
Remote area	1	2%
<b>Total</b>	<b>58</b>	<b>100%</b>

3. In which area(s) do you practise?

Area of law	No. of respondents	%
Litigation	37	64%
Company/commercial	25	43%
Criminal law	23	40%
Administrative/constitutional	22	38%
Insurance	17	29%
Debt	16	28%
Wills/probate/estate	15	26%
Property	15	26%
Personal injury	14	24%
Bankruptcy	12	21%
Construction	12	21%
Employment	12	21%
Family law	12	21%
Immigration	11	19%
Domestic violence	11	19%
Consumer	8	14%
Discrimination	8	14%
Other	8	14%
Environment	7	12%
Banking/finance	5	9%
Incorporations	4	7%
Housing/Tenancy	3	5%
Powers of attorney/guardianship	2	3%
Domestic violence	1	6%
Intellectual property	1	2%
Social security	1	2%

Other: Planning and local government; Industrial prosecutions, inquests; Professional disciplinary work; Superannuation, costs assessment, alternative dispute resolution; Human rights, Professional negligence, medical negligence; Children's law, dispute resolution.



Section 3 – Your participation

1. In the past 12 months have you spent time doing or coordinating the provision of pro bono legal work?

Pro bono in last 12 months	No. of respondents	%
Yes	51	88%
No	7	12%
<b>Total</b>	<b>58</b>	<b>100%</b>

2. In which of the following areas of law have you done pro bono legal work in the last 12 months?

Area of law	No. of respondents	%
Criminal law	26	51%
Litigation	14	27%
Immigration	12	23%
Administrative/constitutional	11	21%
Personal injury	11	21%
Other	8	15%
Employment	7	13%
Company/commercial	6	12%
Discrimination	6	12%
Family law	6	12%
Wills/probate/estate	6	12%
Domestic violence	5	10%
Debt	5	10%
Housing/tenancy	5	10%
Insurance	5	10%
Bankruptcy	3	6%
Consumer	3	6%
Property	3	6%
Banking/finance	2	4%
Environment	2	4%
Incorporations	2	4%
Powers of attorney/guardianship	2	4%
Social security	1	2%
Tax	1	2%

Other: Coronial; Advice to truck drivers through the national magazine I write for; Victims compensation application for judicial review; Human rights; Adoption proceedings; Medical negligence.

3. Have you ever done pro bono legal work?

*This question was presented to those who had not done any pro bono legal work in the last 12 months.*

Ever done pro bono	No. of respondents	%
Yes	6	10%
No	1	2%
Empty responses	51	88%
<b>Total</b>	<b>58</b>	<b>100%</b>

Section 4 – Types of pro bono legal work

1. Which of the following pro bono legal work have you done in the past 12 months?

Type of pro bono	No. of respondents	%
Provide verbal advice	46	90%
Representation before a court or a tribunal	41	80%
Drafting of documents	32	63%
Provide written advice	30	59%
Negotiation	15	29%
Mediation	5	10%
Other	3	6%

Other: Written a Guide to Guardianship for community legal centre; Visit detention centre, advise legal centre; Board member of a pro bono organisation.

2. For whom was this pro bono legal work done?

Recipients of pro bono	No. of respondents	%
Individuals	44	86%
Community legal centres	19	37%
Other not-for-profits	17	33%
Other	2	4%

Other: Bar association; on referral from Supreme Court.

3. Have you volunteered legal assistance at a community organisation in the last 12 months?

Volunteered at a CLC	No. of respondents	%
Yes	20	39%
No	31	61%
<b>Total</b>	<b>58</b>	<b>100%</b>

4. When volunteering legal assistance at a community organisation what type of organisation was it?

Type of organisation	No. of respondents	%
A community legal centre or service	11	55%
Other not-for-profit organisation	8	40%
Other	1	5%
<b>Total</b>	<b>20</b>	<b>100%</b>

#### Section 5 – Practice issues

1. Do you keep a record of the pro bono legal work that you are doing?

Record of pro bono	No. of respondents	%
Yes	20	39%
No	31	69%
<b>Total</b>	<b>51</b>	<b>100%</b>

2. When you take on cases on a pro bono basis, do you take them on...?

Pro bono for...	No. of respondents	%
For free	48	94%
At a substantially reduced fee	17	33%
<b>Other</b>	<b>5</b>	<b>10%</b>

Other: Payment only if costs order in favour of client; Client indebted to the extent of any costs order; If successful in immigration matters the Minister pays costs; Conditional costs agreement; Essentially for free but subject to a favourable costs order.

Section 6 – Amount of pro bono work

1. Can you estimate how many hours of pro bono legal work you have done in the last 12 months?

<b>Hours of pro bono</b>	<b>No of respondents</b>	<b>%</b>
5 hours or less	2	4%
6-10 hours	0	0%
11-20 hours	4	7%
21-30 hours	8	15%
31-40 hours	9	18%
41-50 hours	9	18%
51-70 hours	5	10%
71-90 hours	2	4%
More than 90 hours	9	18%
Don't know	3	6%
<b>Total</b>	<b>51</b>	<b>100%</b>

Median: 41-50 hours.

2. Have you spent more or less time doing pro bono legal work in the past 12 months than in the previous 12 months?

<b>More or less pro bono</b>	<b>No. of respondents</b>	<b>%</b>
More	20	39%
Less	10	20%
No change	17	33%
Don't know	4	8%
<b>Total</b>	<b>51</b>	<b>100%</b>

## Section 7 – Sources of pro bono work

1. Is your name on referral lists kept by any of the following?

<b>Name on list</b>	<b>No. of respondents</b>	<b>%</b>
Clearing house	9	18%
Bar pro bono scheme	24	47%
Court pro bono scheme	12	23%
None of the above	10	20%
Don't know	8	15%
Other	13	25%

Other: Referrals from solicitors; Kept by local community NGO; Pro bono schemes run by legal firms and Duty Barrister Scheme; Aboriginal Legal Service; Intellectual Disability Rights Service and Side by Side Advocacy; Community Legal Centres and private practitioners; Some law firms do pro bono and brief counsel - lists kept; Aboriginal Legal Service; UTS Community Legal Centre and Refugee Advice and Casework Service; Duty Barrister Scheme; Community Legal Centres; Balmain for Refugees Uniting Church Group; Selected solicitors are aware that I will do this work.

2. What is the source of new pro bono matters?

<b>Source</b>	<b>No. of respondents</b>	<b>%</b>
Direct request from a solicitor	23	45%
Referral from the Bar legal assistance scheme	21	41%
Direct requests from a family member or friend	17	33%
Referral by a community organisation	17	33%
Referral from courts, tribunals or complaint handling bodies	16	31%
Direct request (cold call) from a potential client	13	25%
Direct requests from existing or past clients	13	25%
Referral from another barrister	13	25%
Other	8	16%
Referral from a clearing house	4	8%
Referral from an Indigenous Legal Organisation	3	6%
Referral from the Law Society	1	2%

Other: Pro bono schemes run by legal firms and Duty Barrister Scheme; Referral from Intellectual Disability Rights Service; Referral was for paying work but I offered to do it pro bono; Special Interest Groups; From Owner Driver Magazine; Direct client contact as an independent volunteer at Downing; Church; Duty Barrister Scheme.

3. What percentage of pro bono matters was referred to you from your Bar's legal assistance scheme (if any)?

From Bar scheme	No. of respondents	%
0%	26	51%
1-25%	13	25%
26-50%	3	6%
51-75%	6	12%
76-100%	2	4%
Other	1	2%
<b>Total</b>	<b>51</b>	<b>100%</b>

### Section 8 – Constraints / encouragement to pro bono

1. What gets in the way of you doing pro bono legal work?

Barrier to pro bono	No. of respondents	%
Lack of time	37	64%
Lack of a solicitor to assist with the matter	23	40%
Insufficient expertise in relevant areas of the law	12	21%
Concern about conflict with fee paying clients	11	19%
No constraints	10	17%
Other	9	16%
The cost of disbursements involved	6	10%
Insurance issues	4	7%
It's the government's responsibility to provide adequate resources	4	7%
Lack of information about opportunities	1	2%

Other: Insufficient offers of work in areas of specialisation; I run a beef production property; Care of an 8.5 month old baby; Sometimes matters take a number of days which makes it costly; Ingratitude of the clients and difficulty of earning a reasonable living; Judicial deadlines; Babysitting costs.

2. What would encourage you to do more pro bono work?

<b>Encouragement</b>	<b>No. of respondents</b>	<b>%</b>
Clearer support for pro bono work from senior members of the Bar	12	21%
Training in areas of law that are common to pro bono	11	19%
A wide range of pro bono opportunities being made available to me	19	33%
More recognition and visibility for the work in general	9	16%
Nothing	15	26%
Other	17	29%

Section 9 – Legal Aid and “no win-no fee” work

*Legal aid and “no win-no fee” work are not considered to be pro bono legal work for the purposes of this survey.*

1. Did you do any Legal Aid work in the last 12 months?

<b>Legal Aid work</b>	<b>No. of respondents</b>	<b>%</b>
Yes	25	31%
No	33	69%
<b>Total</b>	<b>58</b>	<b>100%</b>

2. In the last 12 months, approximately what percentage of your time was for legally aided clients?

<b>Time for Legal Aid</b>	<b>No. of respondents</b>	<b>%</b>
0-5%	4	16%
6-10%	8	32%
11-20%	5	20%
21-50%	3	12%
Over 50%	5	20%
<b>Total</b>	<b>25</b>	<b>100%</b>

## Section 10 – Attitudes to pro bono legal work

1. Do you think that lawyers should do pro bono legal work?

Should lawyers do pro bono	No. of respondents	%
Yes	53	91%
No	5	9%
<b>Total</b>	<b>58</b>	<b>100%</b>

2. What are the top two reasons why lawyers should do pro bono legal work?

Reasons for doing pro bono	No. of respondents	%
To help people who are socially disadvantaged or marginalised	47	88%
Out of a sense of professional responsibility	35	66%
Personal satisfaction from providing the service	12	22%
To put something back into the profession	7	13%
Provides a positive public profile for chambers and/or individual lawyers	3	6%
To broaden their skills and experience	1	2%
Other	1	2%

3. Are you aware of the National Pro Bono Aspirational Target of 35 hours per lawyer per year?

Aware of Target	No. of respondents	%
Yes	8	14%
No	50	86%
<b>Total</b>	<b>58</b>	<b>100%</b>



## **Part 2: Issues**

There were many responses to the survey questions regarding the respondents' attitudes to pro bono work and Legal Aid as well as to the last survey question: 'Is there anything else you think might be useful for us to know about your pro bono work?'

Responses to these open-ended questions highlighted a number of important issues regarding Legal Aid and its fee scales, barriers to pro bono and other issues the profession has about pro bono. All responses were made anonymously.

### **Is there any particular reason why you did not do any Legal Aid work?**

*Responses:*

- i. The availability of legal aid is so scant that it is largely an irrelevance. Further, the fees are so low as to make it more satisfying to either do the work for no fee or on a contingency basis.
- ii. I cannot stand legal aid authorities. I would rather do the work for free.
- iii. Too many constraints re decision making; having to justify fees; not applicable in areas of expertise
- iv. Involved in academic work.
- v. The types of work I do aren't generally funded by legal aid.
- vi. Not interested in fees. I want to provide my services free.
- vii. Not offered it as known that I will do it pro bono, also seems that not much Legal Aid is available for people with an intellectual disability.

- viii. Since coming to the Bar I have received most of my work from other floor members and the floor I am on is predominantly a commercial and privately-funded one. I am not familiar with the Legal Aid system in NSW and do not know how to get briefs from Legally Aided solicitors. If I were to be offered Legal Aid briefs, then I should be happy to take them on, especially in the area of debt. I previously worked in London and the firm I was employed by was franchised with the Legal Services Commission (Legal Aid equivalent) so I have done Legal Aid work before. That work related mainly to debt (mortgage shortfalls, bankruptcy, debt, etc).
- ix. When it comes to the level of fees and timeliness of payment, they are disdainful to the point of being insulting.
- x. Legal aid work is confined to a coterie many of whom do nothing else.
- xi. I do not do criminal work.
- xii. The administrative hassles are not worth the bother.
- xiii. Briefs not offered in legal aid matters.
- xiv. I have offered my services to Legal Aid but I have not received any briefs.
- xv. Not requested to do any.
- xvi. The clients I assist are either ineligible or in areas which are not assisted by legal aid.
- xvii. I was not offered to do any.
- xviii. No referrals from Legal Aid received.
- xix. I don't know anyone at Legal Aid and so have not considered it. I suppose I thought it was a closed shop.

- xx. In my experience in my field, unlike in early years, Legal Aid is rarely available and when it is it is accompanied by unreasonable restrictions on support for the work required e.g. obtaining expert evidence. I therefore prefer to back my own judgment on whether a matter has merit and if I feel it does, I will offer a conditional fee agreement.
- xxi. It wasn't offered to me. If it was offered I would do it. I have just accepted a legal aid brief for sentence, but I haven't started work on it yet, so I felt I had to answer no to the last question.
- xxii. None was referred. Didn't know how to put my name forward for it.

**Do you have any comments that you would like to make about Legal Aid or “no win-no fee” work?**

*Responses:*

- i. Not enough money is available for preparation. I spent 3 full days preparing a brief only to have it settle on the first day.
- ii. Regarding Legal Aid: I would rather just act for no fees and no hassle.
- iii. I would prefer, as a junior barrister, to take on Legal Aid work instead of “no win, no fee” work. To me, it seems that the former would provide some income, as opposed to the latter which would demand an inordinate amount of time with no pecuniary reward for some time, if at all.
- iv. I would do more legal aid work if approached. Although the fees are low the work is very interesting and important.
- v. It is too easy to lose because of something that has nothing to do with my competence. The usual reason being a lying client who back flips in the box.

- vi. I think “no win-no fee” work generates a conflict of interest on the part of too many lawyers who are too often induced to settle matters too cheaply rather than run them and risk not receiving any fees.
- vii. Low rate, but regular & quickly paid.
- viii. Legal Practitioners Act & Legal Aid Commission Act renders all legal work hazardous.
- ix. The scope of availability of Legal Aid needs to be expanded to allow greater access to a wider section of the community with worthy claims who do not currently meet the means tests.
- x. The bureaucracy of Legal Aid is made up mainly by non-lawyers, and administrators with little or no legal knowledge, or experience, in courts and court procedure. Because of budgetary restraints, and the lack of legal knowledge, assigned cases cannot be adequately prepared and run, whether they are defended matters or sentence hearings. Also, the level of funding to barrister practitioners is seriously inadequate. For example, a barrister doing 48 uninterrupted weeks of District Court work in NSW, and paying for chambers and overheads, nets less than a 1st Year Legal Aid Solicitor. Whereas, a Public Defender, doing on average only about 30 weeks work in court in any year in NSW, grosses just under \$250,000. Completely inequitable, particularly as there is an ever increasing reliance on the private Bar to accept work that Public Defenders are unable to do.
- xi. Should be more structured and made available as a facility rather than an obstacle to the supply of assistance to the client.
- xii. I only practise in Family Law so everyone loses - ooops. Am I allowed to say that?? Seriously, it may work for property matters but not children's matters.
- xiii. “No win-no fee” works in some cases e.g. personal injury but not in others e.g. crime.
- xiv. It can be ambiguous and create excessive cynicism and expectations.

- xv. It can be frustrating. Clients are quite demanding and often not as gracious as they might be. The non-payment of fees when matters are not reached is also frustrating.
- xvi. Legal Aid should be regarded as part pro bono as it pays at about one-third common rates.
- xvii. Legal Aid is inadequate for experienced Barristers. “No win-no fee” is not appropriate in criminal work. I and other experienced Counsel are prepared to do more Legal Aid work yet it seems we are ignored in favour of friends & associates of those in the LAC.
- xviii. Legal Aid is often a source of injustice in civil matters where one party is legally aided but the other is not, in particular in family law matters. Those who don't work (and therefore qualify for legal aid) get Rolls Royce service, yet those that do get nothing but can't afford proper legal representation, with effect that the unemployed get precedence over the workers. The only way to redress this injustice is to provide a proper system for partial subsidisation of those who work but are not paid much.
- xix. In my limited experience, people who do not pay for legal services are often those who take up the most of one's work time by constantly calling. Strangely, the pro bona clients I have had in the past also seem to be the least grateful for my efforts.
- xx. Legal Aid should communicate more with counsel in our region to see how we are placed to assist with pro bono work – and/or to check if we can do no more!! ‘No win, no fee’ work I feel weakens the sentiment behind doing pro bono work from the outset.
- xxi. I accept “no win-no fee” work at my discretion after assessing the prospects and merits of the case. Usually I would decline to act if I rate the prospects of success at less than 70%. I will take on cases with lower prospects when it seems as if the client is at risk of suffering substantial injustice.

- xxii. More government funds need to be allocated to legal aid and less of those funds need to be spent on a burgeoning and unproductive bureaucracy.
- xxiii. Not likely to be suitable given my areas of expertise.
- xxiv. I do regard this type of case to be pro bono of a kind. These days success even in personal injury cases of a deserving can be too speculative to amount to give rise to a commercial expectation. Moreover, long trials in difficult cases have an effect on your cash flow.
- xxv. I think that the legal system should be accessible to all people regardless of wealth. On that basis, I agree in principle with Legal Aid and “no win-no fee” work.
- xxvi. Legal Aid is corrupt.
- xxvii. Legal Aid might represent 60% of my time yet 20% of my fees.
- xxviii. Full funding of legal aid is vital to democracy and a functioning criminal justice system.
- xxix. Criminal work does not lend itself to 'no win, no fee' work.

**To what extent are you satisfied, or not satisfied, with the amount of pro bono work that you have done in the last 12 months?**

*Responses:*

- i. Not at all satisfied that clients need this assistance as it is almost always their own stupidity that gets them into the situation where they need my services.
- ii. It would be nice to do more, but it is never enough.

- iii. Many times interviews only lasted 30 minutes which made the drafting of documents very difficult. I also often felt that the clients were those who were the most skilled at manipulating the system in order to reap the benefits of both the Social Security system and volunteer organisations.
- iv. Very Satisfied.
- v. Greatly satisfied. My work is a mix of counselling and legal advice to those who have not contacted legal services and are looking for some direction.
- vi. The work is generally rewarding though the difficulty is striking a balance in pro bono work and other work and the demands of both.
- vii. Would like to do more from time to time in my fields of specialty.
- viii. I would like more but I am approached only when the ALS is short of personnel.
- ix. I am probably doing more than I wish to but I hate saying no if it means a person with an intellectual disability will be unrepresented.
- x. I am satisfied with the amount of pro bono work that I have done. I am a member of a number of schemes where work is referred to me. I also am part of the NSW Bar Duty Barristers' Scheme at the Downing Centre. Although financially it is a strain to provide pro bono work it is also rewarding and important. If I could afford to I would donate more time.
- xi. Satisfied. Pro bono clients need to be selected very carefully. Some take it for granted and almost blame you, as part of the legal system, for their problem. Others have no idea of 'bono'. I.e. they expect representation to progress their stupid self indulgent vindictive feud against whatever.
- xii. I'd prefer to do more and less of my general paid work but materialism is still prevailing.

- xiii. I am satisfied. I think I do a fair share.
- xiv. Satisfied, gaining experience as a barrister.
- xv. I do what I am asked to do. I don't seek pro bono work out but I would not decline to act over an inability to pay.
- xvi. I am satisfied, although I would not normally do this much pro bono work in a year.
- xvii. Happy to do but the work should be supported by some funding. Not possible to continue at the same level for much longer. Work itself is very satisfying.
- xviii. I would accept pro bono work from the NSW Bar Association if I can do it this week but the ones I have done in the past have resulted in my losing paid work. The further away the hearing, the greater the chance I will lose paid work. I once had a matter go over 4 times and I lost about \$20,000 in work that I had to reject as I had to appear on the pro bono matter. So now I don't take pro bono cases unless they are in the next few days and there is virtually no risk I have to give up paid work. I am happy to do more - provided it is on for hearing shortly.
- xix. I do as much pro bono work as I can without detracting from my paying work (which allows me to do it). I find it satisfying even if it doesn't lead to a win (and a consequent speculative costs order).
- xx. Capacity for pro bono work is limited by availability/capacity due to other fee paying commitments.
- xxi. Dissatisfied; I have not done enough.
- xxii. I would like to help more people, but as I only do crime I find that I tend to get used a lot and have to be very discerning. I am more or less satisfied.
- xxiii. It seemed to me to be necessary for the persons concerned to achieve justice.



- xxiv. I do as many Order 80 references from the Federal Court as arrive on my desk. It amounts to a contested hearing every 3-5 months, and other matters too weak to press. I would do more if more reached me - but not excessively more.
- xxv. Satisfied even though it is reducing. My practice has grown so it is difficult to devote time to pro bono work. My pro bono work now tends to be legal aid briefs for individuals or community groups.
- xxvi. Too new at the bar to tell.
- xxvii. I am satisfied with the amount of pro bono work I've done. To date pro bono work has come to me by chance so I've recently volunteered to take part in the NSW Bar Association's Duty Barrister Scheme at the Downing Centre which is more organised.
- xxviii. Reasonably satisfied, two cases had very successful results; one case had a successful result in an appeal court which reversed a summary dismissal. The client had a strong belief in the merits of his case and the representation allowed him to receive a full hearing with representation by another counsel. However he was unsuccessful on final hearing. Although the result was reasonable in the abstract there was not much practical utility for the individual.
- xxix. I was satisfied that I had done it. I was dissatisfied to learn that it had largely become necessary because of inadequate earlier legal advice.
- xxx. I am content to take a laissez faire attitude to it. If asked I'm happy to oblige but I have not sought it out.
- xxxi. I am satisfied with the amount of pro bono work I have done.
- xxxii. Not in a position to do anymore than I have been doing.
- xxxiii. It is fine - but I do find it hard to negotiate the competing time demands.
- xxxiv. Highly satisfied and I wish I had current capacity to do more.

xxxv. Not satisfied. I have time to, and would like to do more.

**Is there anything else that you think would be useful for us to know about your pro bono work?**

*Responses:*

- i. There is an enormous amount of unrecognised pro bono work performed by private practitioners every day which is done without fanfare and without recognition. The trend of big firms promoting themselves through placement of junior solicitors in pro bono centres is useful but verging on cynical. The recognition of professional responsibility and the place occupied by professions in the community (at least historically) would be a good step forward. So too would recognition of that fact by government instead of the ceaseless political bagging of professions.
- ii. Lawyers do not own the law. It's objectionable that there is the expectation that we should give away for free what we do for a living. Go and ask a doctor or a plumber to do work for free and see what reception you get.
- iii. As I stated before I became somewhat disillusioned by feeling that many of the clients were not bona fide disadvantaged but, in fact, were canny and manipulative of the system.
- iv. Assistance to Community Organizations is overlooked; there are concerns re insurance/professional responsibilities in assisting community groups without a paid retainer.
- v. I am in a limited practice situation and my work is mostly involved in teaching. I maintain my PC principally in order to do the Pro bono work but take other limited briefs.

- vi. One week's pro bono work should be compulsory for all practitioners in their first year. It will provide an insight into other peoples' lives, remove the fear factor of disadvantaged people and provide a useful contribution to real problem
- vii. I have been told by senior counsel that they would do pro bono work if approached.
- viii. I ran a matter in the Court of Appeal for someone with no money so it was obviously either pro bono or no win no pay. It would also have been obvious that at least 30 hours of work was needed before the hearing day. I accept that the law (limitation) meant that the claim had to fail but I did not appreciate receiving high handed smartarse treatment from one of the Judges.
- ix. It would be more satisfying to be able to appear in court in my specialised areas of practice where I have some particular expertise rather than advising on a broad range of general law areas to clients as they walk in the door of the community legal centre.
- x. I only support it because the government underfunds access. Some legal work does not get paid anyway: to ask lawyers to do more is not reasonable.
- xi. Working on an outline of a scheme for the funding of meritorious claims between Legal Aid and economic units which can afford to accept risk as to costs based on insurance principles - non-profit but generating large reserves and able to pay its directors and servant properly.
- xii. The bar could make it a requirement of having a practicing certificate that each barrister does a certain number of hours of pro bono work every year - just as we have to do a certain number of CPD hours every year.
- xiii. Since such work usually reflects positively on the profession (which usually is seen as money-hungry and selfish) those doing pro bono work should receive more formal recognition. For example no one should be appointed senior counsel without having done substantial and consistent pro bono work over at least FIVE years and must undertake to do some thereafter. It is in the long-term interest of the profession and the Justice system for such work to be done and be acknowledged.

- xiv. A big issue is the insurance because you have to be so careful and when a family law client cannot afford your services, or cannot get legal aid, (in my experience) they are often the most difficult clients which puts your insurance at risk and they are the ones who are more likely to make a complaint about you.
- xv. I would probably do more if I had access to some of the firms that had designated pro-bono schemes.
- xvi. Perhaps the Bar Associations could apply a levy on each practising certificate renewal and use the funds to partly compensate those barristers who accept Bar Association pro bono referrals.
- xvii. In criminal law it is difficult to discern between those who genuinely deserve my experience and those who are just trying to con me and get cheaper rates.
- xviii. Yes. My legal work all takes place at Downing Centre Local Criminal Court. I attend two days each week. It is the only legal work I do. I call myself a 'volunteer barrister'. I only keep paying bar fees, indemnity insurance and licence fees to do this legal work. I am an independent low income retired person and find some difficulty with having to keep up with the costs I have to meet to be able to be a volunteer.
- xix. OTHER THAN I FIND IT MOST REWARDING - AND I LOOK FOR NO PERSONAL GAIN!
- xx. My practice could be 100% pro bono but clearly that is not viable. I therefore try to keep a balance of 25-30% pro bono and 70-75% fee paying work.
- xxi. I am a barrister who does commercial work on a paid basis. Pro bono work I have done for Villawood detainees and an elderly Italian woman left without a home under her husband's will has given me the most personal job satisfaction to date. It has also given me the most challenges since I had to run the litigation largely on my own.
- xxii. I usually allow 10 days per year for pro bono work.

- xxiii. Whilst it is undesirable that individuals receive publicity for their pro bono work it would assist if the profession received the public acknowledgment. This would serve to enhance the public perception of the profession.
- xxiv. I have tried to make it known that I am available for pro bono criminal work with very little response.