



First Performance Report on the National Pro Bono Aspirational Target

September 2008

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* National Pro Bono Aspirational Target signatories

* Staff at the National Pro Bono Resource Centre, especially, Skye Rose, John Corker and intern Markos Farag

Background

The National Pro Bono Resource Centre (“**Centre**”) launched the National Pro Bono Aspirational Target (“**Target**”) on 26 April 2007. All signatories that signed up before 31 December 2006 are Foundation Signatories.

As at 30 June 2008, the Target had 58 signatories (see Appendix 1) and covered approximately 3,000 legal professionals, being individual solicitors or barristers, and law firms.

These legal professionals signed up to a Statement of Principles (see Appendix 2). The aspirational target contained within the Statement of Principles is a voluntary one 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 lawyers should 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 have access to legal assistance, to highlight the shared nature of that responsibility across the legal profession, and to provide a benchmark for conduct of pro bono work.

In July 2008, the Centre provided each signatory with a questionnaire to assess their pro bono performance against the Target for the 2007/2008 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 how they calculated the total number of pro bono hours.

Between July and August 2008, signatories reported back to the Centre on their performance against the Target. These responses form the basis of this report. The Centre has contacted the signatories that did not report prior to September 2008 to discuss their performance against the Target and their ongoing commitment to the Target.

Under the Statement of Principles, the Centre is required to publish, within three months of the end of each year in the categories of law firm, solicitor and barrister, information on the performance of signatories against the Target in the previous year.

Executive summary

Between July 2008 and August 2008, 36 of the 58 signatories to the Target reported on their pro bono performance against the Target for 2007/2008. Although response rates by signatories were relatively low at 62 percent, the signatories who reported account for approximately 95 percent of all legal professionals covered by the Target. All of the five largest law firms, which account for more than 90 percent of people covered by the Target, reported on their performance against the Target.

83% of the signatories that reported on the Target (30 signatories) indicated that they met the Target.

According to the signatories that reported, 2894.8 full-time lawyers or barristers are covered by the Target. These lawyers collectively undertook 115,334 hours of pro bono legal work, which equates to an average of 39.8 hours of pro bono legal work per lawyer for the 2007/2008 financial year.¹

Separate analyses for law firms, solicitors and barristers follow.

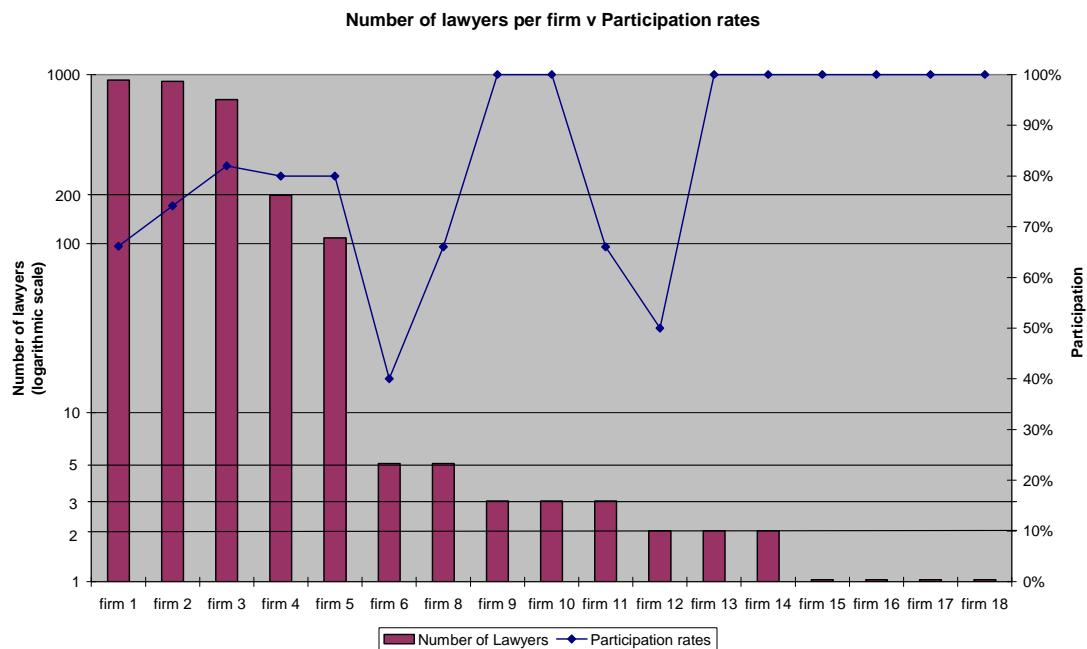
Law firms

Eighteen of the 30 signatory law firms (60%) reported on the Target.² Overall, 14 (78%) of the 18 reporting law firms indicated that they met the Target.

The law firm signatories that reported fall within two distinct categories: those with more than 100 lawyers, and those with less than five lawyers.

These 18 firms indicated that 113,356 hours of pro bono legal work was undertaken by 2876.8 full-time lawyers in the 2007/2008 financial year. This is the equivalent to 59 full-time pro bono lawyers (based on a 40 hour week), or an average of 39.4 hours of pro bono per lawyer.

Participation rates by lawyers were high. Across the 18 firms, the average participation rate of lawyers involved in pro bono at their firm during the 2007/2008 financial year was 74%.

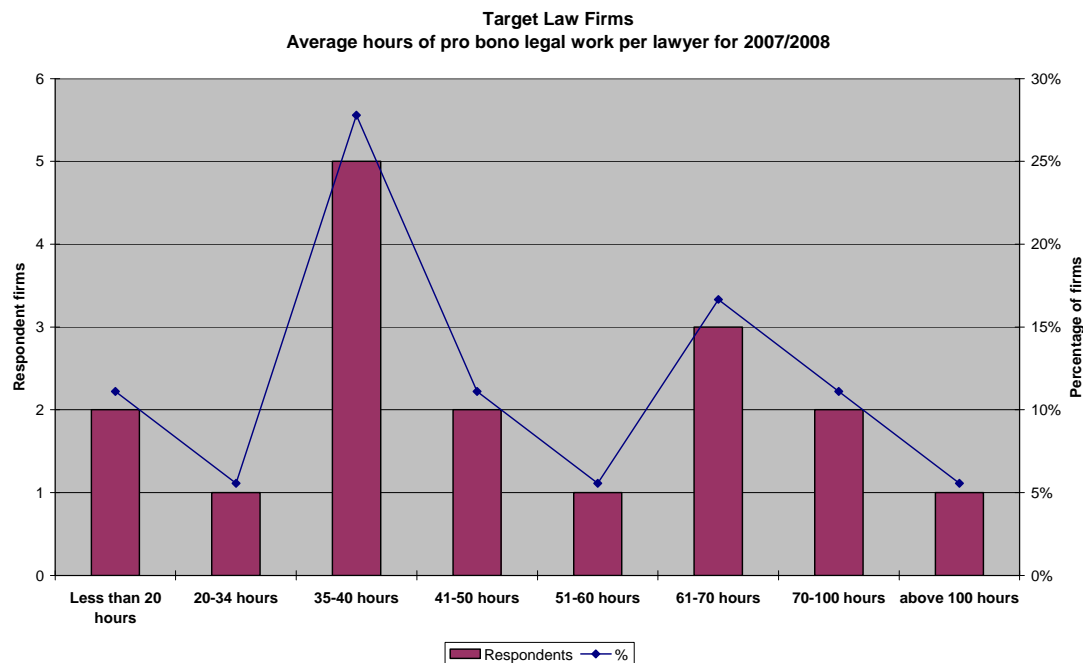


¹ As the Human Rights Law Resource Centre reported that they undertook a very large number of pro bono hours, we did not include their pro bono hours or full-time employees in the calculation to arrive at this figure. If it is included in the calculation, an average of 42.2 pro bono hours per lawyer is the result.

² One law firm did not report due to ceasing practice.

Performance against the Target varied broadly as follows:

- two (12%) firms reported less than 20 hours of pro bono per lawyer
- two (12%) reported 20-34 pro bono hours per lawyer
- four (23%) firms reported 35-40 pro bono hours per lawyer
- two (12%) firms reported 40-50 pro bono hours per lawyer
- one (6%) firm reported 50-60 pro bono hours per lawyer
- three (18%) firms reported 60-70 pro bono hours per lawyer
- one (6%) firm reported 90-100 pro bono hours per lawyer, and
- two (12%) firms reported more than 100 hours pro bono hours per lawyer.



The value of the total pro bono work undertaken (calculated at each lawyer’s normal charge-out rate) as a percentage of each firm’s billable practice varied dramatically. Only eight firms (44%) advised the Centre of the value of their pro bono work as a percentage of their firm’s billable practice. Of the two large firms (with more than 100 lawyers) that reported on this question, the value of each firm’s total pro bono work was more than 2.5% of their respective billable practices. Of the six small firms (with five lawyers or less) that reported, contributions ranged from 1.14% to 20% of each firm’s billable practice, with an average pro bono contribution of 8.95%.

Seven of the 18 law firms (39%) provided training to lawyers to help them provide pro bono legal assistance during the 2007/2008 financial year. This included training in domestic violence, Apprehended Violence Orders, discrimination, stolen wages, victim’s compensation, and Refugee Review Tribunal applications.

Those who did not meet the Target advised us whether they would meet the Target in the following year:

- one (25%) indicated that they would not meet the Target in the following year
- one (25%) didn’t know if they would meet the Target
- one (25%) indicated that they would meet the Target, and
- one (25%) didn’t indicate whether they would meet the Target.

Signatories advised whether the Target had any impact on their pro bono practice:

- 23% reported that the Target set a useful benchmark and encouraged pro bono
- 18% reported that the Target led to an increase in the firm's pro bono practice
- 6% reported that the Target increased goodwill
- 12% reported that the Target increased the firm's focus on legal needs of disadvantaged people, and
- 53% reported no impact.

Top five law firms

The five largest law firm signatories demonstrated an impressive pro bono performance for the 2007/2008 financial year. All five largest law firms met the Target, providing a total of 111,747 hours of pro bono legal services across Australia.

Collectively the law firms undertook an average of 39.2 pro bono hours per lawyer. Performance against the Target was as follows:

- three law firms reported 35-40 pro bono hours per lawyer
- one law firm reported 50-60 pro bono hours per lawyer, and
- one firm reported more than 60 pro bono hours per lawyer.

Participation rates were high at 74%, which is the same as the overall law firm participation rate.

The top five signatory firms advised us whether the Target had any impact on their pro bono practice:

- two firms indicated that the Target encouraged pro bono/ expanded the pro bono practice
- two firms reported that the Target set an important benchmark for pro bono and focused the firms attention on pro bono, and
- one firm did not indicate whether the Target had an impact on its pro bono practice.

Solicitors

Eight of the thirteen individual signatory solicitors (62%) reported on their pro bono performance against the Target.³

Of those who reported, 100% met the Target. On average, each solicitor spent 102 hours undertaking pro bono work in the 2007/2008 financial year. The spread of hours was as follows:

- 50 percent undertook 35-50 hours
- 25 percent undertook 51-100 hours
- 12.5 percent undertook 101-200 hours, and
- 12.5 percent >200 hours.

³ Two solicitors did not report due to moving overseas or changing employment.

Two solicitors (25%) indicated that the Target raised the consciousness of pro bono, while another two (25%) indicated that the Target had no impact on the quality or quantity of their pro bono work.

Barristers

Ten of the sixteen individual signatory barristers (63%) reported on the Target. One barrister (6%) did not report on performance against the Target due to appointment to the bench.

Of those who reported, eight (80%) met the Target. Both of the barristers that did not meet the Target undertook 20 hours of pro bono during the year and indicated that they expected to meet the Target in the next financial year.

On average, each barrister who reported spent 116 hours on pro bono legal work during the 2007/2008 financial year.

Of those who met the Target:

- 20 percent undertook less than 35 hours
- 50 percent undertook 35-100 hours, and
- 30 percent undertook more than 100 hours.

Six of the 10 respondents (60%) reported that the Target had no impact on the quantity or quality of pro bono work undertaken, while three (30%) indicated that the Target lead to a greater focus on pro bono.

Appendix 1 - Target Signatories

Appendix 2 - Statement of Principles

APPENDIX 1 Target Signatories

Foundation Signatories

Law Firms

Allens Arthur Robinson
Arnold Bloch Leibler
Barbara Garrick & Associates Lawyers
Ben Gelin Solicitors
Besley & Hughes
Blake Dawson
Brock Partners
CE Cranney & Co
Clayton Utz
Connah Steed & Co
Gilbert+Tobin
GPN Law
Hudson Henning & Goodman, Barristers, Solicitors & Notaries
Logical Legal Solicitors
MacGregor Solicitors
McDonnell Schroder Solicitors
McPhee lawyers
McMillan Boylson
Brian Muir
Ryan Lawyers
Sachs Gerace Lawyers
Sarah & Associates
Slattery Thompson
Winn Legal

Solicitors

Richard Clarke, Australian Capital Territory
Michael Corbin, New South Wales
David Durham, Queensland
Anne Gunasekera, Queensland
Graham Jones, New South Wales
Anthony Jucha, New South Wales
Anthony Levin, New South Wales
Otto Stichter, New South Wales
Phuong Trinh, Queensland
Stephen Rees, Queensland

Barristers

Peter Britten-Jones, South Australia
Simon Freitag, Western Australia
Philip Greenwood, New South Wales
Paul Kerr, New South Wales
Julia Lonergan, New South Wales
Craig McIntosh, Western Australia

Bernadette O'Reilly, New South Wales
Noeline Rudland, New South Wales
Anette Schoombee, Western Australia
Richard Thomas, Australian Capital Territory

2007 Signatories

Law Firms

AM legal
Coyne and Whitemore
Di Lizio & Associates
Human Rights Law Resource Centre
Stella Stuthridge & Associates

Solicitors

Geovanna Baute, New South Wales
Nicholas Linke, South Australia
Joharna Wynaden, Western Australia

Barristers

David Garnsworthy, Western Australia
David Godwin, New South Wales
Nick Eastman, New South Wales
Stephen Estcourt, QC, Tasmania
F.J. Purnell S.C., Australian Capital Territory

2008 Signatories

Law Firms

G & D Lawyers Pty Ltd

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.