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REPORT SHOWS PRO BONO GROWTH BUT REVEALS WARNING SIGNS

The [Final Report on the Fourth Biennial National Law Firm Pro Bono Survey](#) (“**the Survey Report**”), released today by the National Pro Bono Resource Centre (“**the Centre**”), indicates an overall growth in pro bono hours per lawyer per year provided by the 41 respondents out of 55 large law firms was 31.7 hours in 2014, an increase from 29.9 hours reported in 2012 and 29 hours in 2010.

However, the Survey Report also shows lower pro bono participation rates by firms’ lawyers, and a continuing trend of firms moving away from providing full billable hour credit recognition for their lawyers’ pro bono legal work. These are both warning signs which warrant further attention from law firms.

Average overall participation rates fell from 59% in 2010 to 50% in 2014. There was also a decrease in the use of measures to provide concrete recognition of pro bono legal work, such as providing full billable hour credit for the purposes of individual lawyer’s billable hour targets, and taking it into account in promotion and advancement, performance appraisals and salary reviews. At the same time there was an increase in recognition through internal awards, events and communication.

“It is concerning to see a decrease in the percentage of firms that recognise pro bono legal work with full billable hour credit, particularly when management and partner support was the most often identified crucial factor to the success of a firm’s pro bono program,” said John Corker, Director of the Centre.

“While the primary motivation for doing pro bono legal work should not be reward, apart from personal satisfaction, there is plenty of evidence that lawyers look to their firm for concrete recognition of their pro bono work to gauge the seriousness of their firm’s commitment to its pro bono program, and a full fee credit for pro bono work towards each lawyers’ billable target is a key way in which this message is communicated,” Corker said.

The Productivity Commission in its Inquiry Report on Access to Justice Arrangements (“**PC Report**”), which was released last week, also commented on the importance of firm culture impacting on the extent of pro bono work undertaken in a firm, particularly “how pro bono work is treated in terms of one of the law firm’s key metrics – the billable hour”.

The PC Report also highlighted that pro bono legal assistance only addresses a limited range of the needs that are covered by the broader legal assistance sector in Australia and a number of results in the Survey Report are consistent with this observation:

- Large firms continued to undertake around 65 percent of their pro bono legal work for organisations rather than for individuals. This reflects other findings regarding the areas of law where most pro bono legal work is being done, and the areas where corporate firms

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have the most expertise, but also raises questions about where the balance should lie between pro bono legal work for organisations and individuals.

- A number of the areas of law and practice where most pro bono services were provided are only relevant to the legal needs of organisations: governance, commercial agreements and deductible gift recipient (DGR) applications.
- The Survey Report again highlights family law as the practice area that the most firms nominated as being in their top five areas where they rejected requests for assistance, followed by criminal law, DGR applications, wills/probate/estate law and immigration law.

“The limitations on pro bono assistance being provided in areas of law affecting individuals, coupled with the Productivity Commission’s finding that legal assistance funding for civil matters has not kept pace with increasing costs and demand, suggests that there is a significant legal need that is not being met. We want to grow pro bono capacity so it can better play its small but important role in addressing this unmet legal need,” said Corker.

“As a way of growing pro bono capacity, the Centre strongly supports the Productivity Commission’s recommendation that the Queensland, New South Wales and Western Australian Governments should consider adopting the National Pro Bono Aspirational Target, tied to their legal panel arrangements. Interestingly, only 15% of the lawyers covered by the Survey Respondents are meeting or exceeding the 35 hours per lawyer per year figure,” said Corker.

The Survey Report confirmed that signatories to the National Pro Bono Aspirational Target of at least 35 hours per lawyer per year perform significantly better than non-signatories when measured against the key metrics. Eighty-eight percent of Survey respondents also indicated that the inclusion of pro bono conditions in the Victorian and Commonwealth government tender arrangements for the purchase of legal services from law firms was useful in encouraging law firms to undertake pro bono legal work.

The full Survey Report provides an insight into the pro bono contribution of large law firms through other topics which include:

- areas of law and practice where pro bono work is undertaken;
- information on matching pro bono legal work with unmet legal need;
- coordination and organisation of pro bono legal work within firms;
- issues which impact on pro bono programs;
- external influences; and
- pro bono legal work in the regional, rural and remote, and international contexts.

An executive summary and the full report can be accessed [here](#).

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Backgrounder

- Twenty-four of the 25 largest law firms were among the 41 of the 55 Australian firms with 50 or more full-time equivalent (FTE) lawyers (large law firm) which responded to the Survey.
- The National Pro Bono Aspirational Target (“**Target**”) is an aspirational target of 35 hours of pro bono legal work per lawyer per year established and administered by the Centre. Law firms and individual barristers and solicitors can sign up to the Target.
- The Commonwealth government has incorporated the Target into its arrangements for the purchase of legal services by its government departments, agencies and statutory authorities, which require them to select from a list of firms which meet certain criteria, including a pro bono requirement. The Commonwealth scheme requires firms with 50 or more FTE lawyers to become signatories to the Target.
- The Commonwealth and Victoria are the only jurisdictions in Australia that have pro bono conditions in their tender arrangements.