

# WHAT IS BEST PRACTICE PRO BONO?

Pro bono is a small but important element in addressing unmet legal needs, and the Australian Pro Bono Centre has released a new guide to best practice to help law firms improve the quality and quantity of their pro bono programs. **JANE SOUTHWARD** reports.

**T**wo weeks ago, Nathan Kennedy, a special counsel at Hall & Wilcox, took on a role he has been working towards during most of his career. Hall & Wilcox appointed the insurance litigator as Director of Pro Bono and Community, which means he now spends half his work week developing a structured pro bono program for the mid-sized firm and its 450 staff.

It's a role that makes sense for Kennedy, who, until April, was president of Australian Lawyers for Human Rights and who has spent many evenings after work volunteering at Marrickville Legal Centre and taking statements from asylum seekers at the Refugee Advice and Casework Service.

He attended the United Nations in Geneva in 2011 as part of the Child



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Rights Taskforce, worked with the National Children's and Youth Law Centre, and, in 2010, was an intern for the International Committee of the Red Cross looking at the guardianship and rights of children in immigration.

"Pro bono work is a way to reach out and give something back to the community," Kennedy says.

"At Hall & Wilcox a lot of our lawyers want to do pro bono. It's also a good thing to be doing as we have a lot of government clients that expect firms to be doing pro bono.

"There are development opportunities for staff who do pro bono as it gives a variety and allows you to expand your skillset as a lawyer."

Kennedy says the firm is working towards achieving 35 hours of pro bono legal work a year per lawyer, as a signatory to the Australian Pro Bono Centre's National Pro Bono

Aspirational Target. Now he is directing the firm's program, he hopes to implement a structured pro bono program, which is recommended in the Australian Pro Bono Centre's *Australian Pro Bono Best Practice Guide*, which was launched in May.

"We do get a lot of requests and you can't help everyone," says Kennedy, who studied law at the University of Technology Sydney then a Masters degree in Human Rights at the University of NSW.

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Sue Hunt is the acting senior policy officer at the Australian Pro Bono Centre, a not-for-profit organisation set up in 2002 to help increase the amount and quality of pro bono being done by solicitors, barristers and firms.

The abbreviated *Best Practice Guide* includes 10 key elements to help firms develop a structured pro bono practice (see next page).

The guide took two years to prepare and is the result of extensive consultation with Australian law firms. In October, a new edition of the centre's flagship publication, the *Australian Pro Bono Manual*, also will be released.

"Australia has a pro bono culture of which we can be proud," Chief Executive Officer of the centre John Corker said at the launch.

"The guide aims to catch some of what makes it unique and effective. It should be useful for emerging pro bono practices and we hope it will also generate discussion among the more mature pro bono practices.



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"There are still quite differing approaches even among the best performing firms.

"It's important also to recognise that the pro bono movement is an international movement and we hope that the Australian experience of best practice has something to offer in the international offices of global firms because global practice has, like structured pro bono practice, become more complex and diverse."

Hunt describes the target of at least 35 hours per lawyer per year as "an achievable goal" for firms and individuals to work towards.

"Nineteen of the 20 largest law firms in Australia have subscribed to the target and just over half of these firms are exceeding it," she says.

"A firm that's in the early stages of developing its pro bono program might not necessarily reach 35 hours per lawyer in its first year," she says.

"For sole practitioners and lawyers in small firms in particular, pro bono is necessarily less structured, but a number of the elements of the *Best Practice Guide* will still be relevant.

"Small firms and sole practitioners make a significant contribution to pro bono and there are some outstanding examples of small firms reaching or exceeding the target.

"Many do pro bono as part of their daily practice and many individual lawyers volunteer at community legal centres. They see it as a professional responsibility to help disadvantaged Australians to access justice."



## 10 KEY ELEMENTS OF THE PRO BONO BEST PRACTICE GUIDE

### 1 A strong social justice and pro bono culture supported by management

Leadership commitment to helping the firm's lawyers fulfil their professional responsibility to make the law available to those who would not otherwise be able to access it, particularly the disadvantaged and marginalised.

Consistent, unambiguous, visible and ongoing leadership support for the firm's pro bono program as the separate and distinct core of the firm's corporate responsibility or community engagement strategy.

Pro bono is regarded as a practice area of the firm.

### 2 A dedicated pro bono leader

At least one pro bono leader of seniority whose sole or main job is to manage the pro bono practice.

### 3 Broad awareness of the pro bono program

Clear understanding throughout the firm that all lawyers are expected and encouraged to do pro bono legal work, while recognising that it is not compulsory.

### 4 Broad engagement of staff and appropriate training

A system for recognising pro bono legal work that ensures participation by staff is straightforward and that they are properly supported in the work.

Where expertise is lacking, training that enables interested lawyers to participate, in many instances, provided by a community partner with the relevant experience.

### 5 A pro bono policy and strategic plan

A clear and comprehensive pro bono policy with specific intake criteria and a clear definition of pro bono legal work, aligned with the National Pro Bono Aspirational Target definition.

An overarching goal of facilitating access to justice for disadvantaged and marginalised individuals and not-for-profit organisations that assist them.



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## 6 Pro bono legal work to the same standard as commercial work

Pro bono legal work is performed and supervised to the same standard, and given the same priority as commercial work.

## 7 Adequate crediting and recognition of pro bono legal work

Pro bono legal work is indistinguishable from commercial work at a lawyer, practice group and firm level, with full billable-hour credit.

Pro bono legal work plays a meaningful role in a lawyer's performance assessment, advancement, and bonuses.

## 8 Setting a firm-wide annual pro bono target and budget

Commitment to a firm-wide minimum number of hours per lawyer per year target for pro bono legal work and being a Target signatory.

Recognising the actual cost of running a pro bono program and setting an annual operational budget for the program.

## 9 Strong and deep relationships with community partners

Building and maintaining relationships of trust and respect with community partners in order to support these organisations, and the firm's pro bono program.

Participating in the pro bono community by promoting pro bono in the profession and supporting other practitioners and initiatives in a collegiate way.

## 10 A strategic risk management plan including accurate record keeping and a regular evaluation process

A risk management plan that includes an assessment and approval process for pro bono matters, active supervision, appropriate letters of engagement, and file management, billing and conflict checking systems that address the unique issues that may arise in pro bono practice.

Accurate records of time spent on pro bono matters, together with other relevant metrics, evaluation processes and reporting to senior management.

For more details, visit [probonocentre.org.au/media/best-practice-pro-bono](http://probonocentre.org.au/media/best-practice-pro-bono)

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