



– National Survey –

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

**November 2008**

**Appendix II**

**State analysis – Queensland**

**National Pro Bono Resource Centre**  
The Law Building, University of New South Wales  
UNSW SYDNEY NSW 2052



Website: [www.nationalprobono.org.au](http://www.nationalprobono.org.au)  
Tel: +61 2 9385 7381 Fax +61 2 9385 7375  
Email: [info@nationalprobono.org.au](mailto:info@nationalprobono.org.au)

NATIONAL PRO BONO RESOURCE CENTRE  
Centres Precinct, Law School Building  
University of New South Wales NSW 2052  
[www.nationalprobono.org.au](http://www.nationalprobono.org.au)

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## Survey details

Ninety-two barristers from Queensland responded to the survey, representing 10% of the State's barristers. Overall, 355 barristers across the country completed the survey, which represents approximately 7% of the total profession.<sup>1</sup>

Due to the similar response rates in both Queensland and Victoria, this appendix compares Queensland data against the overall national data but also against Victorian data. The Appendix presents all responses to all survey questions in charts and graphs, as well as key findings and issues that emerged from the overall responses of the 92 individual barristers in Queensland who completed the survey. Of these 81 (or 88%) had undertaken pro bono work in the last 12 months. The results give a picture of pro bono work done by barristers in Queensland.

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.

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<sup>1</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.

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 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 had spent time doing pro bono legal work in the last 12 months, compared with 87% of barristers nationally and 88% in Victoria.
- Thirty-four percent of Queensland respondents had done more pro bono work in the last 12 months than in the previous 12 months. Thirty-eight percent reported no change in the amount of pro bono legal work and only 10% reported doing fewer hours. Compared with the Victorian data and the national data, this would seem to indicate that the amount of pro bono legal work is on the rise in Queensland. On a national level, 38% of respondents had done more pro bono work, 30% reported no change and 18% reported doing fewer hours of pro bono in the last 12 months than in the previous 12 months. In Victoria, 32% of respondents reported doing more pro bono legal work, 26% reported no change and 22% reported doing fewer hours of pro bono legal work.
- Queensland barristers reported doing more pro bono work than their colleagues nationally. The median number of hours of pro bono legal work per barrister in the last 12 months was 51-70, compared with 41-50 hours nationally. Barristers from Victoria performed on par with their Queensland colleagues, with a median of 51-70 hours per year. Twenty-one respondents (26%) from Queensland reported doing more than 90 hours per year, and a further 11 respondents (14%) reported doing between 71-90 hours of pro bono legal work.
- The source of new pro bono matters most commonly nominated by respondents was referral from a community legal organisation (50%), followed by direct requests from family or friends (49%) and direct requests from solicitors. This is in contrast to Victoria, where the three most commonly nominated sources for pro bono were: referral from Bar legal assistance scheme (49%), referral from pro bono clearing

house (48%) and direct requests from solicitors (44%). Whilst the Victorian data seems to reflect the efficiency of a formal Bar Association legal assistance scheme<sup>2</sup> and the Public Interest Law Clearing House (PILCH), the Queensland data seems to reflect a greater number of barristers who volunteer at Community Legal organisations.

- Forty-one percent of barristers in Queensland reported volunteering legal assistance at a community legal organisation, compared with 19% of barristers in Victoria and 28% nationally.
- The areas of law in which the greatest percentage of barristers had provided pro bono legal services were criminal law (39%), family law (26%), administrative/constitutional law (21%) and litigation (15%). This differs greatly from the responses in Victoria, where the greatest percentage of respondents had provided pro bono legal services in administrative/constitutional law (27%), litigation (20%), criminal law (19%) and immigration (16%). 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%).
- Eighty-five percent of respondents had provided pro bono legal work in the form of verbal advice, followed by representation before a court or tribunal (73%) and drafting of documents (61%). Responses nationally, and from Victoria showed similar results.
- Seventy-one percent of respondents undertook pro bono legal work for individuals, whilst 36% undertook pro bono legal work for community legal centres (CLCs) and 35% for other not-for-profits. The responses in Victoria differed only slightly, with more respondents undertaking pro bono legal work for other not-for-profits (33%) than for CLCs (30%). Nationally, 74% of respondents reported undertaking pro bono work for individuals, 31% for CLCs and 32% for other not-for-profits.

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<sup>2</sup> The Queensland Bar Association does not have a formal legal assistance scheme, although it does provide pro bono referrals to its members through inquiries for assistance made to the Chief Executive of the Bar Association.

- The main obstacle for undertaking pro bono legal work was ‘lack of time’ (66%), followed by ‘lack of a solicitor to assist with the matter’ (55%) and ‘the cost of disbursements involved’ (20%). This is in keeping with the responses nationally and from Victoria, although ‘insufficient expertise in relevant areas of the law’ was the third most nominated barrier (by 21%) to pro bono by Victorian barristers.
- 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 legal work were helping the socially disadvantaged and marginalised (78%) and a sense of professional responsibility (61%). These figures are consistent with responses both nationally and from Victoria.
- Only 13% 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 being aware of the Target and 17% of respondents nationally.
- A markedly high number of Queensland respondents, 52%, had done Legal Aid work in the last 12 months, with the median percentage of a respondent’s time dedicated to legally aided clients being also high at 21-50%. Just 34% of Victorian respondents had done Legal Aid work in the last 12 months, with the median percentage of a respondent’s time dedicated to legally aided clients being 6-10%. Nationally, 43% of respondents had done Legal Aid work in the last 12 months, with the median percentage of time dedicated to legally aided clients being 11-20%. A high number of respondents made comments about Legal Aid work. See pp. 16-20.

## Part 1: Responses to survey questions

### Section 1 – About you

1. How long have you been admitted to practice?

Admitted to practice	No. of respondents	%
Less than 1 year	1	1%
1-2 years	2	2%
3-5 years	11	12%
6-10 years	20	21%
11-20 years	37	40%
21-30 years	12	13%
Over 30 years	9	10%
<b>Total</b>	<b>92</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	8	9%
1-2 years	6	6%
3-5 years	21	23%
6-10 years	21	23%
11-20 years	22	24%
21-30 years	9	10%
Over 30 years	5	5%
<b>Total</b>	<b>92</b>	<b>100%</b>

Median: 6-10 years.

3. How old are you?

Age	No. of respondents	%
26-30	2	2%
31-40	25	27%
41-50	36	39%
51-60	18	20%
61 or over	11	12%
<b>Total</b>	<b>92</b>	<b>100%</b>

Median: 41-50 years.

4. Are you...?

<b>Gender</b>	<b>No. of respondents</b>	<b>%</b>
Male	69	75%
Female	23	25%
<b>Total</b>	<b>92</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	4	4%
Senior counsel	4	4%
Senior Junior counsel	22	24%
Junior counsel	59	64%
Reader	2	2%
Other	1	1%
<b>Total</b>	<b>92</b>	<b>100%</b>

2. Where are your chambers located?

<b>Location</b>	<b>No. of respondents</b>	<b>%</b>
Capital city CBD	75	82%
Capital city suburb	4	4%
Regional city or area	11	12%
Rural area	2	2%
Remote area	0	2%
<b>Total</b>	<b>92</b>	<b>100%</b>

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

<b>Area of law</b>	<b>No. of respondents</b>	<b>%</b>
Criminal law	46	50%
Litigation	43	47%
Company/commercial	38	41%
Family law	35	38%
Property	30	33%
Administrative/constitutional	30	33%
Domestic violence	23	25%
Wills/probate/estate	23	25%
Employment	22	24%
Personal injury	21	23%
Bankruptcy	20	22%
Debt	19	21%
Discrimination	17	18%
Environment	16	17%
Construction	15	16%
Other	15	16%
Insurance	14	15%
Consumer	12	13%
Banking/finance	11	12%
Powers of attorney/guardianship	11	12%
Incorporations	9	10%
Immigration	7	8%
Social security	7	8%
Intellectual property	7	8%
Tax	6	7%
Housing/tenancy	1	1%

Other: Contract, tort; Maritime and admiralty; Veterans; Disability law; Worker's compensation; Public law; Planning and local government law; Native title; Costs; Equity; Worker's compensation and statutory regulation; Occupational health and safety and risk management.

### Section 3 – Your participation

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

<b>Pro bono in last 12 months</b>	<b>No. of respondents</b>	<b>%</b>
Yes	81	88%
No	11	12%
<b>Total</b>	<b>92</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?

<b>Area of law</b>	<b>No. of respondents</b>	<b>%</b>
Criminal law	36	39%
Family law	24	26%
Administrative/constitutional	20	22%
Litigation	14	15%
Employment	13	14%
Company/commercial	12	13%
Discrimination	12	13%
Property	10	11%
Wills/probate/estate	10	11%
Domestic violence	9	10%
Other	9	10%
Incorporations	8	9%
Consumer	7	8%
Debt	7	8%
Environment	7	8%
Immigration	7	8%
Social security	7	8%
Housing/tenancy	5	5%
Insurance	5	5%
Intellectual property	5	5%
Personal injury	5	5%
Powers of attorney/guardianship	5	5%
Bankruptcy	4	4%
Banking/finance	3	3%
Construction	3	3%

Other: Animal welfare, RSPCA; Veterans; Disability law; Worker's compensation; RSPCA prosecutions; Planning and local government law; Costs; Defamation; Law reform and policy.

3. Have you ever done pro bono legal work?

*This question was only 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	10	11%
No	1	1%
Empty responses	81	88%
<b>Total</b>	<b>92</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	69	85%
Representation before a court or a tribunal	59	73%
Drafting of documents	51	63%
Provide written advice	37	41%
Negotiation	31	38%
Mediation	12	15%
Other	4	5%

Other: Sitting on an honorary committee; Lecturing; Representation of a professional body on various committees.

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

Recipients of pro bono	No. of respondents	%
Individuals	66	72%
Community legal centres	33	36%
Other not-for-profits	32	35%
Other	6	7%

Other: One matter for law firm on wholly inadequate Legal Aid; Community lobby group; Aboriginal Legal Aid; Company of which the individual was a director; Charity - Parents without Partners; Company.

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

Volunteered at a CLC	No. of respondents	%
Yes	38	41%
No	43	47%
Empty responses	11	12%
<b>Total</b>	<b>92</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	24	63%
Other not-for-profit organisation	13	34%
Other	1	1%
<b>Total</b>	<b>38</b>	<b>100%</b>

Other: Duty barrister.

### 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	33	40%
No	48	60%
<b>Total</b>	<b>81</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	75	93%
At a substantially reduced fee	27	33%
Other	9	11%

Other: Either free, or as costs ordered and actually recovered; If Legal Aid, I only call it pro bono because it is grossly inadequate; On a speculative basis; Either gratis or what the party can reasonably afford; contingency or success basis; Subject to recovery of costs by client as QPILCH retainer.

## 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	2%
6-10 hours	2	2%
11-20 hours	8	10%
21-30 hours	5	6%
31-40 hours	12	15%
41-50 hours	10	12%
51-70 hours	9	11%
71-90 hours	11	14%
More than 90 hours	21	26%
Don't know	1	1%
<b>Total</b>	<b>81</b>	<b>100%</b>

Median: 51-70 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	32	34%
Less	10	11%
No change	35	38%
Don't know	4	5%
Empty responses	11	12%
<b>Total</b>	<b>92</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	21	23%
Bar pro bono scheme	26	28%
Court pro bono scheme	14	15%
None of the above	18	20%
Don't know	16	17%
Other	11	12%

Other: Pine Rivers Neighbourhood Centre; Welfare Rights Centre Inc.; Not sure what you mean - Welfare Rights know to ring me!; Refugee and Immigration Legal Service; Law firms who know I will do pro bono work; Environmental Defender's Office; Bar Association of Queensland; Caxton; Word of mouth; Community legal service; RSPCA.

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

<b>Source</b>	<b>No. of respondents</b>	<b>%</b>
Referral by a community organisation	46	50%
Direct requests from a family member or friend	45	49%
Direct request from a solicitor	38	41%
Direct requests from existing or past clients	32	35%
Referral from another barrister	24	26%
Direct request (cold call) from a potential client	20	22%
Referral from a clearing house	19	21%
Referral from courts, tribunals or complaint handling bodies	15	16%
Referral from an Indigenous Legal Organisation	10	11%
Other	4	4%
Referral from the Law Society	2	2%
Don't know	1	1%

Other: Community Legal Centre; RSPCA; referral from Legal Aid QLD.

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

From Bar scheme	No. of respondents	%
0%	59	72%
1-25%	15	19%
26-50%	4	5%
51-75%	2	2%
76-100%	1	1%
Other	0	0%
<b>Total</b>	<b>81</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	61	66%
Lack of a solicitor to assist with the matter	51	55%
The cost of disbursements involved	18	20%
Insufficient expertise in relevant areas of the law	16	17%
Concern about conflict of interest with fee paying clients	15	16%
No constraints	12	13%
Lack of information about opportunities	9	10%
Other	9	10%
It's the government's responsibility to provide adequate resources	7	8%
Not interested	4	4%

Other: Inability to deal with intractable problems; The need to earn an income; Professional restrictions, Supreme Court PD 2/2006 and Bar rules; Total absence of funding even where the merits are strong; Exposure to risk and Bar rules; Need to balance time with paid work; The need to earn an income to support my family; Irrational unpredictable clients; I have to earn a living. If I do not work I do not eat.

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

Encouragement	No. of respondents	%
Clearer support for pro bono work from senior members of the Bar	22	24%
Training in areas of law that are common to pro bono	17	18%
A wide range of pro bono opportunities being made available to me	22	24%
More recognition and visibility for the work in general	25	27%
Nothing	28	30%
Other	17	18%

Other: More involvement from solicitors; Solicitors firms with established pro bono policies; Provision of support from solicitors doing pro bono work; More time; Free access to online resources (CCH and Butterworth's) subscriptions; Solicitor availability to assist; Amending the professional restrictions on representation; More availability of solicitors to assist; Provision of at least some merits tested funding; Higher Legal Aid fees; Referrals from solicitors prepared to assist; More time to do it; Higher Legal Aid scales would assist me to afford more free work; More time; Proper insurance and instructions; Linking negotiated outcomes to disputes in environmental law; Requests to play a barrister's rather than a solicitor's role.

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?

Legal Aid work	No. of respondents	%
Yes	48	52%
No	44	48%
<b>Total</b>	<b>92</b>	<b>100%</b>

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

Time for Legal Aid	No. of respondents	%
0-5%	10	21%
6-10%	5	10%
11-20%	5	10%
21-50%	18	38%
Over 50%	10	21%
<b>Total</b>	<b>48</b>	<b>100%</b>

Median: 21-50%.

## Section 10 – Attitudes to pro bono legal work

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

<b>Should lawyers do pro bono</b>	<b>No. of respondents</b>	<b>%</b>
Yes	84	91%
No	8	9%
<b>Total</b>	<b>92</b>	<b>100%</b>

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

<b>Reasons for doing pro bono</b>	<b>No. of respondents</b>	<b>%</b>
To help people who are socially disadvantaged or marginalised	72	78%
Out of a sense of professional responsibility	56	61%
Personal satisfaction from providing the service	14	15%
To put something back into the profession	13	14%
Other	7	8%
To broaden their skills and experience	5	5%
Provides a positive public profile from chambers and/or individual lawyers	1	1%

Other: all of the above; To help those who cannot afford legal fees - wider than above; Provides a positive public profile for the whole profession; Because of their obligation to contribute to the community; To prevent the justice system falling into disrepute; Donoghue v Stevenson would not qualify for Legal Aid in 2008; To put something back into society.

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

<b>Aware of Target</b>	<b>No. of respondents</b>	<b>%</b>
Yes	12	13%
No	80	87%
<b>Total</b>	<b>92</b>	<b>100%</b>

## Part 2: Issues

There were many responses to the survey questions regarding the respondents' attitudes to pro bono legal 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. Most legally aided work is in criminal law and family law and I do not practice in these areas.
- ii. The legal aid rates are completely worthless, and many times the clients are not truly deserving of assistance
- iii. No - my whole practice is in pro bono work for the community legal service (housing; debt; family law; bankruptcy etc.) and also for disability organisations in NSW/Qld. (governance; solvency etc).
- iv. Pay rate is uncommercial. Government displays anti-lawyer policies. Prefer to allocate the equivalent time to individuals/communities who appreciate and benefit from my efforts.
- v. Not available in the fields I assist in.
- vi. Not interested and too busy with paying clients
- vii. The fees are parsimonious.
- viii. Never offered. Have a commercial practice only.
- ix. Legal aid not available in migration law.

- x. Legal Aid in Queensland IS pro bono work! The fees payable, particularly for criminal work, barely cover expenses.
- xi. My areas of practice are not generally funded.
- xii. It is not possible to make a reasonable living doing Legal Aid work. I prefer to take on less better paid private work that I can do properly in the time I have and donate any free time to pro bono. Legal Aid also attempt to 'stiff' barristers for the work they do and spend more money disallowing their fees than in the fees they allow.
- xiii. The Legal Aid scale is at 40% of market value and has been for a decade so I would prefer to do free work of my choosing for deserving clients as a charitable community contribution rather than let irresponsible governments exploit me and underfund the justice system simply because there are no votes in criminal defence. By only doing better paid private work I can afford to do some free pro bone work and I am not supporting the government's exploitation of the criminal bar.
- xiv. Fees are a joke, but rather help people who really need assistance for free
- xv. I was a part-time member of the Administrative Appeals Tribunal in 2007 and so decided cases argued before me by Legal Aid.
- xvi. I have not been offered this type of work for some time although I once did a large volume of this type of work (1992 to 1998). From 1999 to 2003 I was a government lawyer and when I returned to the private bar I did try to encourage this work without success. I now work for government (not as a lawyer) and would not be available to do this type of work and I am no longer interested in Criminal or Family work.

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

*Responses:*

- i. Legal Aid rates and very low for the time and work that is put into cases, particularly trials
- ii. Do not support the concept in either public or private practice
- iii. 90% of my practice is no win no fee

- iv. Legal Aid rates for counsel desperately need increasing. As soon as my practice builds up I will probably refuse Legal Aid briefs if the rates don't improve.
- v. Legal Aid is appallingly funded. It is not possible to survive as counsel on the fees allowed by Legal Aid nor is the schedule of fees commensurate with the reward that should be expected of Counsel's expertise.
- vi. Competent counsels are more likely to do legal aid work if the fees are appropriate. Better funding is required.
- vii. Whilst the certainty of payment is an attractive aspect of legally aided work, the fees paid are substantially less than my private fee paying work. Recent suggestions that barristers will have to negotiate with the solicitor as to how much of the legal aid funding is paid to him/her as their fee will likely result in a greater proportion of legally aided work being rejected because of the fee preferred. Per hour, the fee paid is abysmally below a reasonable rate of payment. Speculative (no win no fee) work like all private work is accompanied by the difficulties and delays in receiving payment which sometimes makes it less attractive than it initially seems.
- viii. I disagree with 'no win, no fee' and therefore do not participate in such a scheme. The Legal Aid scale is commercially unrealistic indicative of the low priority the Government places upon it.
- ix. Many years ago, so I am told, every member of the bar had to do a certain number of legal aid matters a year, especially in crime. I would be happy to do this a couple of times a year, even though I have a civil practice, provided I could do things where I didn't think I was out of my depth. I think it would be good professionally for me and the rest of the bar, and good for the clients. It's also a practical solution to the problem.
- x. Legal Aid is completely inadequate. I would rather do it free in some ways, rather than tangle with the paperwork.
- xi. Legal Aid work is paid promptly once you are able to submit a tax invoice. However, the rule that invoices cannot be submitted until a matter has been completed means that there can be a delay of 12 months to 2 years between work and payment where you are briefed to draft initiating court documents. The rates of pay are significantly below market when compared to commercial rates of pay. However, within that, the appearance fees of themselves are not terribly much under. It is the lack of provision for preparation, written submissions or written advice, and the lack of recognition within the pay scale

of seniority, which means that, particularly as you get more senior, the legal aid grant nowhere near matches ordinary remuneration.

- xii. Legal Aid fees in Queensland for criminal matters are considerably less than what other government agencies pay for counsel.
- xiii. Legal Aid Fees are so low that they do not allow a person who receives only periodic LA briefs to meet their professional expenses. This results in more experienced barristers moving away from LA work and the clients being represented by less experienced barristers, not always to their advantage.
- xiv. The solicitors who brief me are working too many files and accordingly the quality of the brief is not as high as the private work
- xv. Not really interested in carrying out such work. Will do some disputes on a spec basis but those are not generally very speculative so it is more like a deferred fee.
- xvi. It is here to stay and should be encouraged. More particularly, professional PR people should be engaged to properly describe to the public what it is about and how Lawyers assist the public.
- xvii. I do not like taking Legal Aid cases as it takes months to get paid by the solicitor. The amount of Research and Preparation is not reflected in the fees.
- xviii. Legal Aid fees need to be higher. They are too low. It is an insult.
- xix. I would never do “no fee - no win”. It compromises you too much in the case.
- xx. Re Legal Aid - the low fees are such that many of the more experienced and/or senior members of the Bar won't accept Legal Aid briefs. This is to the detriment of the community as a whole - let alone to the individual themselves who may be represented by inexperienced counsel.
- xxi. Legal aid fees in civil matters are pretty good; except for advice work is paid very poorly for time involved.
- xxii. Legal Aid scales are a disgrace and since they have been so low for so long the criminal bar has been run into the ground. Criminal barristers are desperate and are now a dying breed due to this neglect.
- xxiii. This is part of a situation where the whole justice system has been run into the ground.

- xxiv. Legal Aid does not pay enough for preparation and pre court conferences. They often don't offer fee adjournments or delays brought on by the prosecutors or the courts. Their structure seems to favour solicitors doing the work and this is reflected in the fees offered on grant. Many Criminal and Family Law grants do not extend to Barristers.
- xxv. Legal Aid remuneration is substantially below what I can earn doing other work; it is tantamount to pro bono work.
- xxvi. No - except legal aid work does not work out a great pay rate when one converts amount received to an hourly rate.
- xxvii. The rates paid by Legal Aid Qld are disgracefully low.
- xxviii. Legal aid is underfunded and people who should be given assistance are not. The funding level encourages sloppy work.
- xxix. Legal Aid doesn't reward settling cases - in fact it is often a loss making exercise - but one I always pursue for my clients.
- xxx. I do my best work for the least grateful clients and the worst possible money.
- xxxi. LAQ briefs are typically far better prepared than briefs prepared by solicitors in private practice who are acting as their agents. The office is better resourced for their own matters. Often pro bono matters are very poorly prepared and become available at the last minute.
- xxxii. Legal aid work is insufficiently remunerated, so as to consistently maintain standards of representation and to maintain the involvement of senior and experienced practitioners in the longer term.
- xxxiii. Legal Aid work is like smoking cigarettes ultimately it undermines your practice and your health if a large proportion of your practice is consumed by it. As for 'no win, no fee' work in my experience there are too many practitioners engaging in it and they are a little too willing to settle matters. This happens when the profit margin precipices settlement.
- xxxiv. Ridiculous in crime. No-one would act for any client going to trial, given that conviction is a distinct likelihood. Legal aid pays poorly as it is.

**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. I have done extensive volunteer work, primarily because I chose to live in a country area on acreage. I found the work very satisfying and I was able to assist many disadvantaged people, sometimes up to 15 people a day. Some of them conducted their matters successfully through the court system. They were able to cross examine and address the court well enough to gain a successful outcome. However the Community Legal Centre I was working for was given funding for a full time lawyer. I did not wish to work on a full time basis.
- ii. The need for pro bono legal services is great. I am satisfied in the sense that I have contributed and assisted some worthy (and not so worthy) people who would otherwise have had no access at all to counsel. That said, I would have been happy to do more.
- iii. I am pleased with it, but expect to do more in the coming year, especially appearance work
- iv. Like most altruistic people I expect I could do more, but the reality is with a busy practice and family I cannot fit any more time in for pro bono work without having some other sacrifice
- v. Extremely satisfied - community engagement is fulfilling
- vi. Satisfied that I could provide legal assistance to clients with a reasonable case, who otherwise as self-represented would have had no chance of a suitable outcome; Unsatisfied that the call on practitioners to do Pro Bono work is due to inadequate Funding of Legal Aid services.
- vii. I am not satisfied because it signifies a failure in the provision of legal assistance to deserving people by federal and state governments with the consequence that the Bar

(or more precisely some members of it) are picking up a government responsibility. The medical profession doesn't seem to have the same difficulty. I guess people are more afraid of dying than going to court. Also pro bono recipients do not have to take a responsible or reasonable attitude to settlement negotiations which adds to the burden on providers.

- viii. I am satisfied with the amount of pro bono work I undertake - my whole practice is pro bono.
- ix. I am quite satisfied with the amount of pro bono work I have done in the last 12 months. I would like to do more from time to time but sometimes it is difficult to manage within the confines of practice and family life. I think I would like to do more but be more selective about the type of pro bono work that I do.
- x. It is very much appreciated by clients. It is commercially disturbing. The Government provides no recognition to Lawyer's pro bono efforts and campaigns to restrict the way we practice.
- xi. Very satisfied. I fit it in with a busy private practice, but see it as a professional obligation. I also enjoy it too, as the area of law I help with is different to my daily practice.
- xii. Very satisfied, do far too much but that is cool.
- xiii. Satisfied. I do what I am asked to do provided that I am available when the request is made.
- xiv. The pro bono matters I am briefed with are often extremely complex, so a large number of hours are spent on only a few matters. On the one hand, it would be nice to help more people. On the other hand, it is satisfying to assist in depth and in the same way as you would for a full fee paying client.
- xv. I would like to take on some 'bigger issue' pro bono work. Whilst most pro bono clients are eternally grateful, the few who are not are remembered for a much longer

period of time. When you are looking at the next pro bono matter and deciding to take it on, it is difficult not to remember the difficult ones.

- xvi. Satisfied - given the constraints of Supreme Court PD 2/2006
- xvii. I am satisfied that I have contributed to the image of the profession by participating in a reasonable level of pro bono work
- xviii. Satisfied. I think about one week of full-time work pro bono per year is about appropriate.
- xix. I am satisfied that the amount of pro bono work that I am committed to is all that I can manage at this stage of my life. I understand however that the community organisations that I am involved with are always short of volunteers.
- xx. I am satisfied with the amount of Pro Bono work to date. It needs to be stated that the particular Legal Centre has employed a full time solicitor; hence, former Advocates will not now participate. I will continue as the Centre is two minutes from my office.
- xxi. The question is meaningless - If it is intended to address satisfaction with outcomes then I have been satisfied for the client with outcomes.
- xxii. I am not satisfied with the work which should on most occasions have been funded by legal aid if we had a fair and equitable application to funding.
- xxiii. My work has been at the instance of the Queensland Court of Appeal. I am content with the degree of referral.
- xxiv. I am satisfied with it but I do also consider doing Legal Aid criminal work a form of pro bono work because the fees in Queensland are so low. I have not counted it in this survey however.
- xxv. Dissatisfied as it is not easy to find clients with merit or solicitors to assist

- xxvi. I am doing too much at the present
- xxvii. Satisfied. It's as much as I can do and still do my income earning work.
- xxviii. Could handle a bit more - not much more though.
- xxix. Very satisfied. It is my way to give back to society something.
- xxx. Satisfied because the cases I did were incredibly interesting and important. But can't spend that much time again.
- xxxi. Very satisfied and I am trying to cut down
- xxxii. Happy to have been of assistance to people who otherwise could not afford legal help. I will do more and/or work more structured in 2008
- xxxiii. I am satisfied with the amount of pro bono work.
- xxxiv. I have only been working part time since the birth of my third child, so while I intend to do more in the coming years - this year has seen only a limited availability of time to dedicate to pro bono work.
- xxxv. Satisfied. I have helped a few people, but would not have had time to help more.
- xxxvi. Not entirely satisfied....timing due to other commitments is an issue.
- xxxvii. Satisfied. Don't have time to do much more.
- xxxviii. This is an odd question and I am unsure what is meant by it. I do not set out to do pro bono work. I simply do it because there are occasions when a person or organisation needs help and I provide it. In an ideal world, I would prefer to do no pro bono work at all, because I prefer and need to be remunerated fairly for the work I do.

- xxxix. I have done too much pro bono work in the past nine years, mostly a detriment to my financial return from practice and it is also viewed by the legal fraternity as odd and suspicious.
- xl. Had twins two and a half years ago so have been working reduced hours until 2008.
- xli. The nature of the advice I have provided is cross-disciplinary (as are my professional qualifications) in law, science and ADR and focus on finding solutions for environmental conflicts. The pro bono work has had practical applications in the development of concepts and principles in a book that I have written -that is to be published by a major UK publisher (Edward Elgar) in June 2008, and so has provided me with great satisfaction.
- xlii. I think it is an appropriate amount of effort, representing 10% of my court time
- xliii. I could do more pro bono work if I had less briefs from other clients. Otherwise I am satisfied with the amount of pro bono work I am doing.
- xliv. I am prepared to provide more assistance directly in respect of particular matters but not in a direct access role but rather in the role more traditionally performed by barristers.
- xlvi. I am satisfied that the amount of pro bono work is no more than last year. I am satisfied also to be providing access to justice, particularly when it is needed or otherwise unavailable - I feel it is a duty to oblige if the work is a referral from an industry or professional organisation. However, I would prefer that the work leads to similar paid work.
- xlvii. I am not satisfied with the amount of pro bono I have provided in the past 12 months, and intend to increase it to my previous levels which would be approximately 10 hours a month to not for profit organisations for the homeless and disadvantaged.

- xlvii. Reasonably satisfied. I think this work is something that should be shared across the Bar. Some people seem to carry a greater proportion of the workload because of their particular areas of practice.

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

*Responses:*

- i. Lack of recognition about pro bono work. Many lawyers do it but there is never any publicity about it. People are quick to judge lawyers about being greedy etc.
- ii. Greater level of co-ordination and co-operation is necessary to assist the Bar Association and the profession to deliver a greater level of pro bono assistance.
- iii. No, but I feel we're swimming against a tide of greediness in this once honourable profession
- iv. I practice in civil/commercial law. Of my clients, about 50% are my clients because they have done something a bit (or very) stupid; about 45% have done something bad (or a bit bad, anyway); the other 5% are my clients because they have been genuinely unlucky. And some part of that 5% can't afford to pay me. They are the ones for whom I will either work on a pro bono basis or a speculative (no win/no fee basis). A competent barrister will always make enough money to be able to spare a few days a year to act on a pro bono basis for those who would otherwise have no access to counsel. If they can't, then you probably wouldn't want to have them representing you anyway. It may be that encouragement to perform pro bono work should begin in law school; and it is easy enough to make a case for it: obtaining experience.
- v. The only answers available to the question as to whether counsel should perform pro bono legal work were 'yes' or 'no'. The issue is much more complex than that. The law is a profession. It is not a philanthropist's society. Those that can afford charity should give it and those that cannot should not. But even that does not properly define the issue.

- vi. Solicitors should be more proactive in seeking to retain barrister's for pro bono work
- vii. I often try to mix my pro bono work with my fee paying work so that appearances in Court etc are done whilst I am already at Court for another matter. I also try to only accept pro bono work in an area of law or practice that is familiar to me so that I do not need to spend more time on it than is absolutely necessary (an issue of efficiency).
- viii. I wish to STRONGLY suggest that the major law publishers, particularly the online subscription services offered by CCH and Thomson/Butterworth's e.g. Casebase and the various electronic manuals/texts on criminal law, family law, debt etc. be made available free of charge to lawyers who provide a substantial amount of pro bono legal work.
- ix. I did a very complicated judicial review application for a prisoner who had been kept in solitary confinement for many years. Legal aid was not available, nor were the usual aboriginal or prisoners legal services able or willing to provide assistance. He was a high profile and poorly regarded fellow in the press. I was led by a very senior Queens Counsel. None of us, incl. the solicitor on the record, were paid or had any prospect of being paid. We did not do it to be paid, and I make no complaint about that. I would estimate that services provided would cost about \$150-\$200k on the open market. It took a very big effort on all our parts, and although I regard it as my professional responsibility to do things like that, I am annoyed that the fellow had to rely on the charity of others to have his case put before the courts and the executive government held to account. On a positive note, I might say that the lawyers who acted pro bono brought a very different skill set to the case, and the fellow had his case prepared and presented in a first class way. There was no difference in how it was run from how it would have been run if he were paying privately for the whole thing. In such a time demanding case, it is only possible (given the opportunity and actual cost of acting pro bono instead of private clients) that such cases are taken infrequently. However, I think if the load were spread more evenly, significant contributions could be made by the profession.
- x. It is not just socially disadvantaged and marginalised who cannot afford legal fees - it is normal people.

- xi. There is a need to provide a better connection between potential clients and barristers prepared to take on the work.
- xii. While not falling within the definition of pro bono legal work, I sit on the management committee of several legal/human rights organisations, including a community legal centre. This commitment consumes approximately (as a minimum) 4 hours per week of my time.
- xiii. There are restriction of what barristers can and cannot do by way of direct briefs, which is most pro bono work, that inhibit barristers from accepting direct pro bono work. In the circumstances it may be more appropriate - unless such restrictions are withdrawn - for barrister's who do pro bono work to be made known to solicitors who have also accepted pro bono instructions.
- xiv. I often do things that I consider are giving back to the profession and the community that do not meet your criteria for pro bono work, and which I consider are an adequate substitute for pro bono work (which tends to be in areas in which I have no interest or experience such as criminal and family law). For example, mentoring law students, speaking to students, presenting seminars, acting on the board of an organisation for disabled children, contributing to the Bar Association's activities. Nearly all barristers, myself included, often reduce fees in the circumstances of particular cases because that seems the right thing to do (for example, small claims, individuals involved of moderate means) - but that never seems to rate mention.
- xv. I enjoy Pro Bono work it exposes me to diversity. For example, I am constantly told about Elder Abuse. It would appear to be an increasing problem area. There may be a correlation between the number of retired person's v the climate and the perception that the Sunshine Coast is all anyone could/ would want.
- xvi. The absence of independent merits based funding ham-strings deserving litigants. Paradoxically, many of those whom one sees are in fact the victims of previous legal practitioners who have failed them when they were paying clients! The complete absence of alternative funding also makes it well nigh impossible for counsel such as

me who are approached directly by members of the community to encourage a solicitor to assist. That creates a serious professional issue because the absence of a solicitor exposes directly retained Counsel to the gravest risks under the new regime imposed by the Legal Profession Acts. An agreement to act pro bono should not be or be construed as an election to forego any payment at all - If costs (on whatever basis ) are appropriate and Ordered payable by the other side, then the pro bono practitioner should be entitled.

- xvii. I tend to try to charge a nominal fee as I find clients are better motivated if contributing and I can assist more if simple costs like travel and parking, and phone and paperwork are covered
- xviii. It would lead to a better use of resources if it was all coordinated through one body and was better recognised.
- xix. I am going to severely cut back since the government does not support the people in criminal defence and since the scales have not been increased I am now in a position where I can no longer afford to help as much as I used to.
- xx. Every one (all Lawyers/ Barristers) should do some pro bono work. It appears that the more junior you are the more you are left to do pro bono work without the more highly paid contributing or supporting such work, however, I am aware that many large Legal firms and senior barristers do contribute significant time.
- xxi. Only if a fundamental aspect of law is involved should be a criterion of pro bono work.
- xxii. Volunteering at a community legal service is a good way to do pro-bono work in a controlled environment.
- xxiii. Not enough people do it, so the burden (especially in rural or regional communities) falls on the same, small pool of lawyers all the time. This is unfair.

- xxiv. Pro bono work generally involves more direct contact with the client, is more time consuming and in my experience not positively perceived in litigation, by the court or members of legal fraternity
- xxv. The new rules restricting what barristers may do (filing etc) actively hampers pro bono work. I won't do pro bono uninstructed but it creates impediments that need not exist.
- xxvi. The use of ADR to resolve disputes should also become prominent in pro bono services offered in the future. Also, the pro bono client must be given a realistic expectation of success of litigation from the outset, as well as the issue of expert evidence (and costs) where there is a need for relevant and reliable scientific evidence.
- xxvii. The pro bono work I see is prepared by the litigant and becomes briefed at the 11th hour. A scheme should be available and promoted to assist in the preparation of pro-bono matters so that the litigant is able to access the scheme from an early stage.
- xxviii. It is imperative that the provision of pro bono services not be seen as or become a substitute for a properly funded legal aid system, particularly in core administration of justice areas such as criminal law.
- xxix. Legal assistance through Legal Aid and other schemes are limited and the resourcing is finite. It is important as a profession that lawyers participate in access to justice including pro bono legal work to ensure that justice is provided fairly to all who seek it in the community.
- xxx. Pro bono work should be made compulsory for larger sized firms with the resources and staff available to assist. It is a great opportunity for junior staff to be mentored in what tends to be a hands on approach to litigation in particular