



– National Survey –

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

November 2008

Appendix IV

Responses to survey questions – Australian Capital Territory

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



Website: www.nationalprobono.org.au
Tel: +61 2 9385 7381 Fax +61 2 9385 7375
Email: info@nationalprobono.org.au

As only 8 barristers in the Australian Capital Territory responded to the survey, this appendix simply records their responses, including any written comments. Despite the limited response rate, some of the written comments may reflect more broadly held views and issues in this jurisdiction.

Section 1 – About you

1. How long have you been admitted to practice?

Admitted to practice	No. of respondents	%
Less than 1 Year	0	0%
1-2 years	0	0%
3-5 years	0	0%
6-10 years	1	13%
11-20 years	5	63%
21-30 years	1	13%
Over 30 years	1	13%

Median: 11-20 years

2. How long have you been at the Bar?

Time at the Bar	No. of respondents	%
Less than 1 year	0	0%
1-2 years	1	13%
3-5 years	3	38%
6-10 years	3	38%
11-20 years	1	13%
Total	8	100%

Median: 3-5 years.

3. How old are you?

Age	No. of respondents	%
26-30	0	0%
31-40	2	25%
41-50	3	38%
51-60	3	38%
61 or over	0	0%
Total	8	100%

Median: 41-50 years.

4. Are you...?

Gender	No. of respondents	%
Male	5	63%
Female	3	37%
Total	8	100%

Section 2 – About your job

1. What is your position?

Position	No. of respondents	%
Queen's Counsel	0	0%
Senior Counsel	0	0%
Senior Junior Counsel	2	25%
Junior Counsel	6	75%
Reader	0	0%
Other	0	0%
Total	8	100%

2. Where are your chambers located?

Location	No. of respondents	%
Capital City CBD	7	87%
Capital city suburb	0	0%
Regional city or area	0	0%
Rural area	1	13%
Remote area	0	0%
Total	8	100%

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

Area of law	No. of respondents	%
Criminal law	7	88%
Family law	6	75%
Administrative constitutional	4	50%
Domestic violence	3	38%
Litigation	3	38%
Bankruptcy	2	25%
Company/commercial	2	25%
Construction	2	25%
Discrimination	2	25%
Employment	2	25%
Housing /Tenancy	2	25%
Personal Injury	2	25%
Property	2	25%
Wills/probate/estate	2	25%
Other	2	25%
Banking/finance	1	13%
Consumer	1	13%
Debt	1	13%
Insurance	1	13%

Other: National security; Public international law.

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	7	87%
No	1	13%
Total	8	100%

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	3	42%
Family law	2	29%
Administrative/constitutional	1	14%
Bankruptcy	1	14%
Company/commercial	1	14%
Discrimination	1	14%
Domestic violence	1	14%
Housing/tenancy	1	14%
Litigation	1	14%
Social security	1	14%
Other	1	14%

Other: National security, veteran's affairs.

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	1	13%
Empty responses	7	87%
Total	8	100%

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	7	100%
Representation before a court or a tribunal	6	86%
Provide written advice	3	42%
Drafting of documents	1	14%
Negotiation	1	14%
Other	1	14%

Other: Public lecture on public interest

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

Recipients of pro bono	No. of respondents	%
Individuals	5	71%
Community Legal Centres	0	0%
Other not-for-profits	3	42%

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

Volunteered at a CLC	No. of respondents	%
Yes	2	29%
No	5	71%
Total	7	100%

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	0	0%
A not-for-profit organisation	2	100%
Total	2	100%

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	2	29%
No	5	71%
Total	7	100%

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

Pro bono for...	No. of respondents	%
For free	6	86%
At a substantially reduced fee	2	29%

Section 6 – Amount of pro bono work

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

Hours of pro bono	No. of respondents	%
5 hours or less	0	0%
6-10 hours	1	14%
11-20 hours	2	29%
21-30 hours	0	0%
31-40 hours	0	0%
41-50 hours	3	42%
51-70 hours	0	0%
71-90 hours	1	14%
More than 90 hours	0	0%
Total	7	100%

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

More or less pro bono	No. of respondents	%
More	4	57%
Less	1	14%
No change	2	29%
Total	7	100%

- 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 am satisfied with the amount of pro bono work I do.

- ii. I would be happy to do more. I was approached by the discrimination commissioner's office to do work other occasions but the clients did not show up.
- iii. Pretty satisfied. There will be more as the case I am working on progresses to trial.
- iv. I have capacity to do some more.
- v. Quite satisfied but making myself available for more through the ACT pro bono clearing house.

Section 7 – Sources of pro bono work

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

Name on list	No. of respondents	%
Clearing house	3	42%
Bar pro bono scheme	1	14%
Court pro bono scheme	1	14%
None of the above	1	14%
Don't know	2	29%

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

Source	No. of respondents	%
Direct requests to you from a family member or friend	4	57%
Direct request to you from a solicitor	4	57%
Referral from a community organisation	4	57%
Direct request to you (cold call) from potential client	3	42%
Referral from a clearing house	3	42%
Referral from an Indigenous Legal Organisation	3	42%
Direct requests to you from existing or past clients	2	29%
Referral from the Law Society	1	14%
Referral from courts, tribunals or complaint handling bodies	1	14%

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%	7	100%
Total	7	100%

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	5	63%
Lack of a solicitor to assist with the matter	2	25%
Insufficient expertise in relevant areas of law	2	25%
No constraints	2	25%
The cost of disbursements involved	1	13%
Lack of information about opportunities	1	13%
Insurance issues	1	13%
Other	1	13%

Other: Pro bono clients can be very time consuming.

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

Encouragement	No. of respondents	%
Nothing	4	50%
A wide range of pro bono opportunities made available to me	2	25%
Training in areas of law that are common to pro bono matters	1	13%
Other	1	13%
Total	8	100%

Other: Reliability of income – costs recovery.

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	8	100%
No	0	0%
Total	8	100%

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%	0	0%
6-10%	2	25%
11-20%	1	13%
21-50%	2	25%
Over 50%	3	37%
Total	8	100%

3. Do you have any comments that you would like to make about Legal Aid or ‘no win-no fee’ work?

Responses:

- i. I don’t like to do speculative work. I find clients are very demanding on my time. I am happy to do Legal Aid work. I find that clients accept that there is a limit to the time allocated to their matter by the grant.
- ii. I am not keen on no win no fee as I believe it is an impediment to alternate dispute resolution and out of court settlement.
- iii. I don’t always agree with the allocation of Legal Aid funds or how they decide grants which can lead to a decision to do a matter pro bono.

- iv. Legal Aid work would benefit from a consistent representative voice so that its importance is recognised in the same way that police and prosecution resourcing is valued.
- v. Legal Aid is grossly underfunded. Lawyers who do Legal Aid work in many respects are to an extent working pro bono if that definition includes a grossly reduced fee – many will not do Legal Aid work anymore because fees are so low.

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	7	87%
No	1	13%
Total	8	100%

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	7	100%
A sense of professional responsibility	5	71%
Personal satisfaction from providing the service	1	14%
Provides a positive public profile for chambers and/or lawyers	1	14%

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	5	63%
No	3	37%
Total	8	100%

4. Is there anything else that you think would be useful for us to know about your pro bono work?
- i. I do not do unpaid pro bono work. I find that clients who are paying a reduced fee are less likely to call me on public holidays or weekends. Fee paying clients (either reduced or full rate) respect the value of my time, whereas some non fee payers do not respect the value of my time.
 - ii. It needs to be easier to be registered for the scheme.
 - iii. Undertaking a significant amount of legal aid work reduces the desire to undertake pro bono work on the basis that the inferior remuneration and technically difficult aspects of legal aid cases means that there is a significant pro bono aspect to that work.
 - iv. I answered 'yes' to lawyers doing pro bono work because there was only a choice of 'yes or no'. PB is in part a requirement 'imposed' because of our sense of duty and there is no other means by which certain parts of the community get a voice. That is part of much broader issues.
 - v. About my pro bono work no - but to return to the issue of costs and income: where recovery of costs from solicitors is timely there is a real ability to devote substantial time to pro bono work. However, even under the present legislative regime it remains the case that solicitors often avoid paying their outstanding debts for many years and thus barristers (especially younger barristers) experience cash flow difficulties. In other words, there is a direct relationship between the amount of pro bono work a barrister can do where his (or her) income is not guaranteed and a situation where cash flow is virtually assured. Thus, there needs to be further reform in the costs recovery area so that barristers are able to allocate a real amount of their time without the real concern of being unable to pay their mortgages.