



– National Survey –

Report on the pro bono legal work of individual Australian Barristers

November 2008

Appendix VI

Responses to survey questions – South Australia

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As only 17 barristers in South Australia 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	1	6%
6-10 years	1	6%
11-20 years	7	41%
21-30 years	5	29%
Over 30 years	3	18%
Total	17	100%

Median: 11-20 years.

2. How long have you been at the Bar?

Time at the Bar	No. of respondents	%
Less than 1 year	1	6%
1-2 years	3	18%
3-5 years	2	12%
6-10 years	6	35%
11-20 years	4	24%
21-30 years	1	6%
Total	17	100%

Median: 6-10 years.

3. How old are you?

Age	No. of respondents	%
26-30	0	0%
31-40	7	41%
41-50	3	18%
51-60	6	35%
61 or over	1	6%
Total	17	100%

Median 41-50 years.

4. Are you...?

Gender	No. of respondents	%
Male	12	71%
Female	5	29%
Total	17	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	11	65%
Junior counsel	6	35%
Reader	0	0%
Total	17	100%

2. Where are your chambers located?

Location	No. of respondents	%
Capital city CBD	16	94%
Capital city suburb	0	0%
Regional city or area	1	6%
Rural area	0	0%
Remote area	0	0%
Total	17	100%

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

Area of law	No. of respondents	%
Litigation	12	71%
Administrative/constitutional	9	53%
Company/commercial	9	53%
Property	7	41%
Intellectual property	6	35%
Criminal law	6	35%
Personal injury	6	35%
Insurance	5	29%
Family law	5	29%
Wills/probate/estate	5	29%
Construction	4	24%
Consumer	4	24%
Immigration	4	24%
Other	4	24%
Banking/finance	3	18%
Bankruptcy	3	18%
Employment	3	18%
Tax	3	18%
Incorporations	2	12%
Powers of attorney/guardianship	2	12%
Debt	1	6%
Discrimination	1	6%
Environment	1	6%

Other: Competition/trade practices, WorkCover, Mining, Trusts, Native title

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	13	76%
No	4	24%
Total	17	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	6	46%
Administrative/constitutional	5	38%
Litigation	4	24%
Employment	2	15%
Property	2	15%
Wills/probate/estate	2	15%
Bankruptcy	1	8%
Company/commercial	1	8%
Consumer	1	8%
Discrimination	1	8%
Environment	1	8%
Family law	1	8%
Immigration	1	8%
Insurance	1	8%
Powers of attorney/guardianship	1	8%
Tax	1	8%
Other	1	8%

Other: Defamation

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	4	24%
No	0	0%
Empty responses	13	13%
Total	17	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	11	84%
Representation before a court or a tribunal	11	84%
Provide written advice	9	69%
Drafting of documents	5	38%
Negotiation	4	30%
Mediation	1	8%
Other	1	8%

Other: Preparing submissions on law reform and proposed legislation

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

Recipients of pro bono	No. of respondents	%
Individuals	12	92%
Community legal centres	5	38%
Other not-for-profits	3	22%
Other	2	15%

Other: RSL and Vietnam Veterans Association, Government departments, Law Society, Bar Association

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

Volunteered at a CLC	No. of respondents	%
Yes	3	22%
No	10	78%
Total	13	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	1	6%
A not-for-profit organisation	2	12%
Empty responses	14	82%
Total	17	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	4	31%
No	9	69%
Total	13	100%

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

Pro bono for...	No. of respondents	%
For free	13	100%
At a substantially reduced fee	9	69%

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?

Hours of pro bono	No of respondents	%
5 hours or less	0	0%
6-10 hours	0	0%
11-20 hours	2	15%
21-30 hours	1	8%
31-40 hours	3	23%
41-50 hours	1	8%
51-70 hours	1	8%
71-90 hours	1	8%
More than 90 hours	3	23%
Don't know	1	8%
Total	13	100%

2. 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	7	53%
Less	2	15%
No change	3	23%
Don't know	1	8%
Total	13	100%

3. 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?
 - i. Generally satisfied.
 - ii. I am willing to undertake any needy cause in areas of my expertise.
 - iii. The work I do is based on word of mouth, so I am always happy to do more.
 - iv. I have decided to do less, as it is a very large commitment and often thankless (especially in South Australia due to government attitude), and therefore I am not satisfied.
 - v. Reasonably satisfied...I'd like to work to reducing it however, because it just does not pay the bills.

- vi. I am satisfied with an average of more than 2 hours a week (although it comes in blocks).
- vii. I have been doing too much – the same few people are doing it all.
- viii. I only do pro bono when asked, and when I can afford the time.
- ix. I am not sure that courts understand the amount of pro bono work which is done by practitioners by way of substantially reduced fees.
- x. I could probably do more but as junior counsel I really can't afford to.
- xi. I am 'satisfied' in the sense that I doubt I could do much more and still maintain a practice at the Bar.

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	0	0%
Bar pro bono scheme	0	0%
Court pro bono scheme	4	31%
None of the above	4	31%
Don't know	4	31%
Other	1	8%
Total	13	100%

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

Source	No. of respondents	%
Direct request from a solicitor	11	85%
Direct requests from a family member or friend	9	69%
Referral by a community organisation	8	61%
Referral from another barrister	6	46%
Direct requests from existing or past clients	5	38%
Referral from courts, tribunals or complaint handling bodies	4	31%
Direct request (cold call) from potential client	3	23%
Referral from the Law Society	2	15%

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%	11	84%
1-25%	1	8%
Other	1	8%
Total	13	100%

Other: SA Bar does not have a scheme but is actively working on one.

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	12	71%
Lack of a solicitor to assist with the matter	6	35%
Concern about conflict of interest with fee paying clients	3	18%
Other	3	18%
No constraints	3	18%
The cost of disbursements involved	2	12%
Lack of information about opportunities	2	12%
Insurance issues	2	12%
Insufficient expertise in relevant areas of the law	1	6%
Not interested	1	6%
It's the government's responsibility to provide adequate resources	1	6%

Other: In at least one instance lack of encouragement from the court; Concern as to the merits of some actions; I already do a large amount of Legal Aid work for little remuneration.

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

Encouragement	No. of respondents	%
More recognition and visibility of the work in general	7	41%
Clearer support for pro bono work from senior members of the Bar	5	29%
A wide range of pro bono opportunities being made available to me	4	24%
Other	4	24%
Nothing	4	24%
Training in areas of law that are common to pro bono	3	18%

Other: Better attitude from government; Solicitor support and weeding out unmeritorious matters; Better Legal Aid rates so I can afford to do pro bono work!

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	9	53%
No	8	47%
Total	17	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%	2	22%
6-10%	1	11%
11-20%	1	11%
21-50%	1	11%
Over 50%	4	44%
Total	9	100%

3. Is there any particular reason why you did not do any Legal Aid work?

- i. I prefer to do pro bono by choice, rather than be grossly underpaid by the government.
- ii. Legal Aid does not fund disputes in my areas of practice.

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

- i. Legal Aid (the organisation) and solicitors who practice in Legal Aid should be more ruthless in weeding out the matters that lack merit so more funding can be directed to meritorious matters.

- ii. Legal Aid cost scales lag behind other scales in applying an appropriate rise in fees. The government attitude towards legal aid and the legal profession in general is a disgrace (especially in South Australia). Government funding for this area is about half of what it should be.
- iii. “No win-no fee” work is not helpful as it encourages unmeritorious claims.
- iv. I think I am getting too old to work for free...I’ve done my bit and would prefer to be paid. But I think all practitioners have a responsibility to the community to help disadvantaged persons who need help.
- v. In South Australia, the remuneration for legal aid work in the family law area is extremely low (e.g. currently \$160 for reading, preparation, attendance on client and appearance in interim matter, and \$1,600 for preparation for trial and first day, \$600 per day thereafter). These are often the most difficult matters with a lot of material to read. They take up a considerable amount of time, leaving precious little time for such things as pro bono work.
- vi. When legal aid don’t fund conferences, proofings, research or preparation, and the fee schedule even when you are in court is so low, I couldn’t really afford to do more.
- vii. The funding for Legal Aid matters is pitifully inadequate. Apart from that the insults heaped upon the Bar which provides so much support for the entire criminal justice system to operate from Governments, politicians and the media generally itself is quite appalling.

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	17	100%
No	0	0%
Total	17	100%

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

Reasons for doing pro bono	No. of respondents	%
A sense of professional responsibility	15	88%
To help people who are socially disadvantaged or marginalised	14	82%
To put something back into the profession	4	24%
Personal satisfaction from providing the service	1	6%

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	29%
No	12	71%
Total	17	100%

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

Responses:

- i. I would prefer to see emphasis on the role of a professional to use their knowledge and abilities to assist others and so from that to encourage all the duties of a professional including pro bono. There is something inconsistent about targets to do something which should come from an internal acceptance of obligations of a professional but then as we are on the verge on becoming simply businesses, the next thing will be compulsory pro bono work as part of a business vision or profile or for good marketing! I see pro bono work as my professional duty (non regulated and entirely up to me)
- ii. Previously involved in duty solicitor/referral service at Community Legal Centre for many years. Willing to again be involved if a need arose but do not have any information as to need / requirements etc.
- iii. As a junior at the bar, it is difficult getting time to do pro bono legal work, and often the matters are just as complex and time consuming as paid work. Acting for anyone who stands to lose something important to them takes an emotional toll, as well as the financial one you bear when you are not getting paid.
- iv. The 'work' is its own reward. Most lawyers who do it feel the same way.

