



Third Annual Performance Report on the National Pro Bono Aspirational Target

August 2010

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1. Background

The National Pro Bono Resource Centre (“**Centre**”) launched the National Pro Bono Aspirational Target (“**Target**”) on 26 April 2007.

The Target is contained in a Statement of Principles (see Appendix 2) and is a voluntary one of at least 35 hours of pro bono legal work per lawyer per year. It represents a minimum number of hours of pro bono legal work that all signatories aspire to undertake.

Key aims of introducing the Target were to raise the profile of a lawyer’s professional responsibility to enhance access to justice for those who would not otherwise access legal assistance, to highlight the shared nature of that responsibility across the legal profession, and to provide a benchmark for conduct of pro bono work.

The Target continues to attract law firm signatories, which account for 99.7 percent of legal professionals covered by the Target. A list of signatories as at 30 June 2010 is contained in Appendix 1.

2. Methodology

In July 2010, the Centre provided each signatory with a questionnaire to assess their pro bono performance against the Target for the 2009/2010 financial year. The questionnaires varied for individual solicitors or barristers and law firms, however all signatories were asked to advise whether they had met the Target, and the impact of the Target on the pro bono legal work undertaken.

Between July and August 2010, signatories reported back to the Centre on their performance against the Target, the responses of which form the basis of this report. As in previous years, the Centre will contact the signatories that failed to report on their pro bono performance prior to publishing this report. Those who do not report on their performance by September 2010 in accordance with their obligations to the Target will be removed from the list of signatories.

3. Executive summary

The 2009/2010 financial year was marked by the robust pro bono performance of Target signatories and a steady increase in law firms signing up to the Target.

As at 30 June 2010, the Target had 58 signatories (being individual solicitors or barristers, and law firms), and covered roughly 10 percent of the Australian legal profession.¹ There are now 5,677.3 full time equivalent (FTE) legal professionals covered by the Target, an increase of 23.4 percent since 30 June 2009.

Although the number of signatories decreased from 66 to 58 in the last financial year, the number of legal professionals covered by the Target increased from 4,600 on 30 June 2009 to 5677.3 FTE legal professionals this year. This can be attributed to the removal of almost twenty signatories who failed to report on their performance against the Target,² and a steady increase in new signatories from large and mid-tier law firms.

Between July and August 2010, 52 of the 58 signatories to the Target reported on their pro bono performance against the Target in the 2009/2010 financial year. Response rates by signatories were high at 90 percent, up significantly from 62 percent last year. Reporting signatories accounted for 5,671.3 legal professionals, being 99.9 percent of all legal professionals covered by the Target. All 37 law firm signatories, which account for 99.6 percent of legal professionals covered by the Target, reported on their pro bono performance. A total of six individual barristers and solicitors failed to report on their performance, three of which appear to have ceased legal practice.

Thirty four of the reporting signatories indicated that they had met the Target, down slightly to 65.4 percent from 70 percent last year.

Responses indicate that 5,671.3 FTE lawyers and barristers collectively undertook 223,612 hours of pro bono legal work, up 21.7 percent from 183,771.5 hours in 2008/2009.³ This equates to an average of 39.5 hours per lawyer for the 2009/2010 financial year, down slightly from 42 hours per lawyer last year.⁴

¹ As at May 2010, there were approximately 56,000 legal practitioners in Australia: see speech given by Glenn Ferguson, President, Law Council of Australia, at the 5th Annual IBA Bar Leaders' Conference, Copenhagen (27 May 2010) available at http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=61FAC42A-D4A6-9B6D-7AC7-3BD9078C0DA0&siteName=lca

² Under the Statement of Principles, each signatory is required to annually report to the Centre whether they met the Target. To ensure the integrity of the Target, those signatories who failed to report on their performance against the Target in 2009 were removed from the list of signatories.

³ Like last year, these figures exclude the 3,600 pro bono hours provided by volunteer lawyers and secondees from non-signatory law firms at the Human Rights Law Resource Centre (HRLRC). The HRLRC became a foundation signatory to the Target in 2007. Although its volunteers and secondees provide a significant amount of pro bono legal work, because it is a CLC its pro bono hours have been excluded this report. When these hours are included, pro bono hours increase to 227,212 hours in 2009/2010, or an average of 40 hours per lawyer per year.

Separate analyses for law firms, solicitors and barristers follow.

4. Law firm signatories

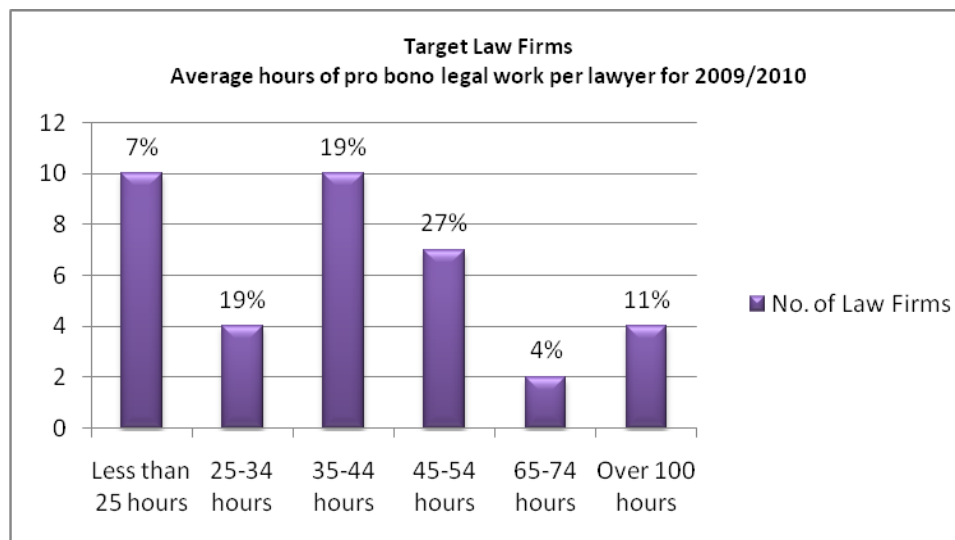
4.1 Overview

All 37 signatory law firms (100%) reported on the Target, of which 23 (62%) indicated that they had met the Target. Collectively, 5,650.3 FTE lawyers undertook 221,943.7 hours of pro bono legal work in the 2009/2010 financial year. This is the equivalent to 123 lawyers working pro bono full-time for one year,⁵ or an average of 39.2 hours of pro bono per lawyer per year.

Although pro bono hours by firms increased by 21.6 percent from 182,508 hours in 2008/2009, the number of hours per lawyer decreased from an average of 41.8 hours per lawyer last year.⁶ This may, in part, be attributed to the significant increase in response rates by law firms, up from 65% last year, as well as external factors such as the economic downturn which led to reductions in legal staff at many signatory firms.

Participation rates by lawyers also fell slightly,. Across the 37 firms, 66 percent of all lawyers covered were involved in pro bono at their firm during the 2009/2010 financial year, down from 72 percent last year.⁷

Performance against the Target varied broadly as follows:



⁴ In the 2009 financial year, 41 reporting signatories indicated that 183,771 hours of pro bono work was done by 4377.7 FTE lawyers during the 2008/2009 financial year.

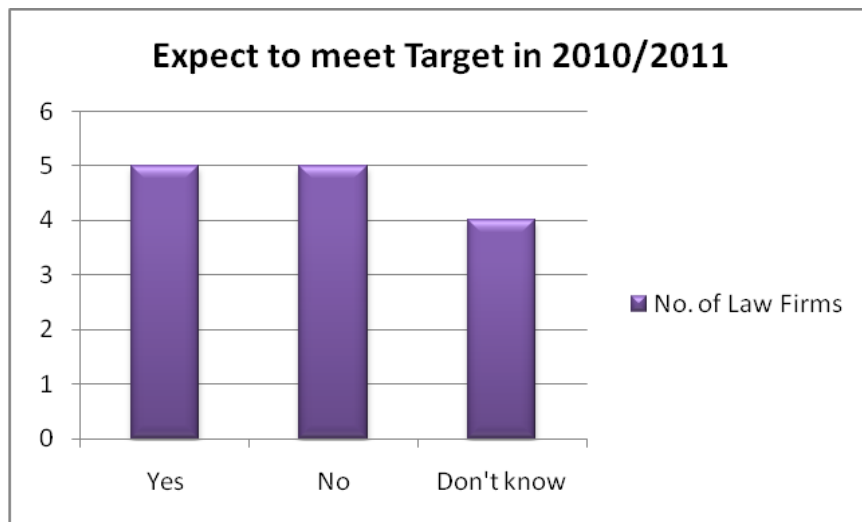
⁵ This figure is based on a 37.5 hour week over 48 weeks.

⁶ In 2008/2009, 26 signatory firms reported that 182,508 hours of pro bono was provided by 4362.7 FTE lawyers, excluding pro bono hours provided by the HRLRC.

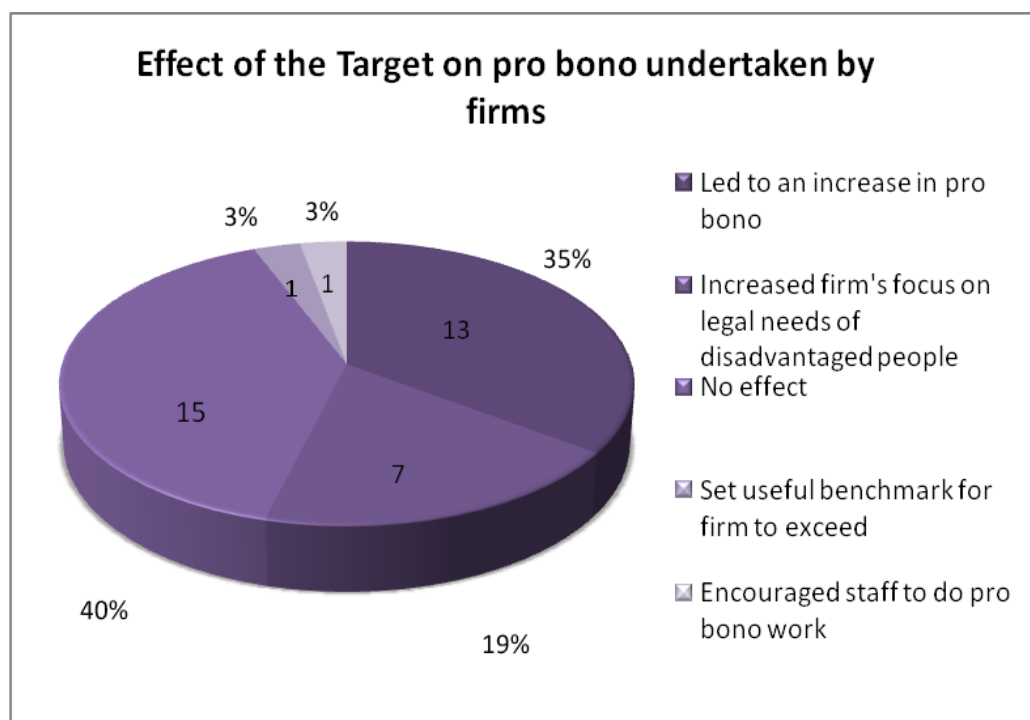
⁷ Calculated by dividing the total number of lawyers by the number of lawyers who provided at least one hour of pro bono work.

Like last year, all firms that provided more than 100 hours employed six lawyers or less.⁸ The two firms that provided more than 150 hours per lawyer had two lawyers or less.

The 14 law firms that did not meet the Target provided the following responses as to whether they expect to meet the Target in the 2010/2011 financial year.



The impact of the Target on each law firm's pro bono practice varied markedly without reference to the size of each law firm or the size or sophistication its pro bono practice.



⁸ Amongst these was the Human Rights Law Resource Centre.

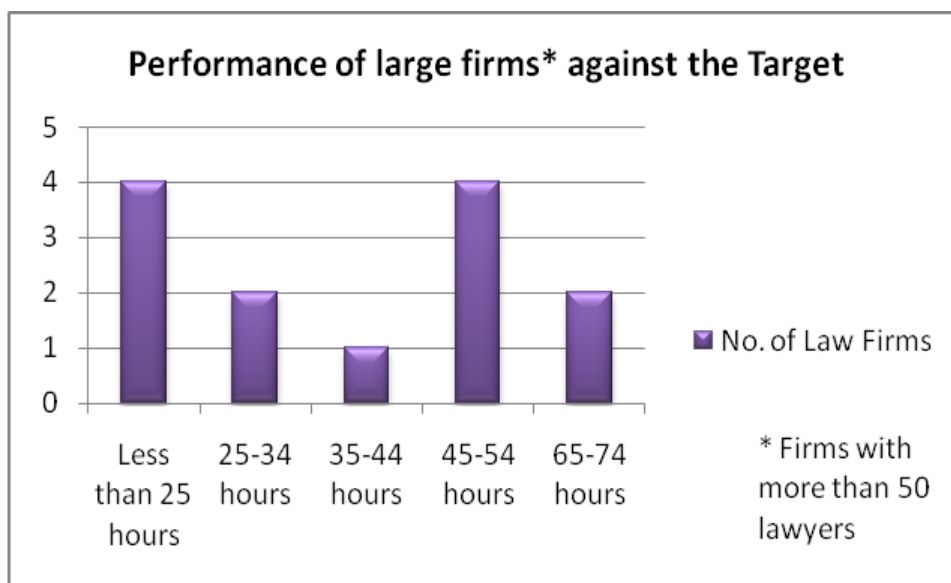
Law firm signatories fell within two distinct categories: those with more than 50 lawyers, and those with less than 10 lawyers, with only two firms with 10-50 lawyers, each of which are considered in more detail below.

4.2 Large law firm signatories

This year there were 13 signatories to the Target with 50 or more lawyers,⁹ up from nine from last year.

The increase in firm signatories may, in part, be attributable to the introduction of reforms to the Commonwealth government's procurement of legal services on 1 July 2009. Under the reforms Commonwealth agencies must, when procuring legal services, take into account the amount and type of pro bono work the law firm has carried out or will carry out, and whether the firm is a signatory to the Target. Since the reforms were announced on 17 September 2008, five large firms and four smaller firms signed up to the Target, increasing the coverage of the Target by roughly 1500 legal professionals.¹⁰

Collectively, the 13 large firm signatories employed 5526.8 FTE legal professionals and undertook 217,854 hours of pro bono legal work, or an average of 39.4 pro bono hours per lawyer, down slightly from 41.7 hours per lawyer last year.



Seven of the 13 firms met the Target and demonstrated an impressive pro bono contribution for the year. Despite accounting for only 66.6 percent of FTE legal professionals at large law firms,¹¹ the seven firms collectively provided a total of

⁹ To ensure consistency with and enable more meaningful comparisons to be drawn from the Centre's 2010 Law Firm Pro Bono Survey, the Centre has classified large firms as those with more than 50 legal professionals nationally, compared with 100 lawyers last year.

¹⁰ Only those firms which signed up to the Target in 2009/2010 are identified in Appendix A.

¹¹ Based on 3,681 FTE lawyers.

181,941 pro bono hours or an average of 49.4 hours per lawyer per year, well above the firm average. Despite employing only 3,681 legal professionals or 64.8% of all those covered by the Target, the lawyers employed at these seven firms undertook 82 percent of all pro bono hours recorded by Target signatories. These figures highlight that there remains a significant disparity between the pro bono contributions of large law firm signatories.

Remarkably, whilst these seven large firm signatories reported stable or reduced numbers of FTE lawyers compared with last year, their collective pro bono contributions notably increased. Data collected from the seven large firms that have been signatories since 2008/2009 suggests that whilst these firms faced a combined reduction in Australian FTE lawyers of 6.4 percent in the last financial year,¹² their collective pro bono output increased by 14 percent from 159,026 pro bono hours to 181,941 hours.

Participation rates fell slightly from 72 percent to 65.9 percent, consistent with the overall firm participation rate of 66 percent.

4.3 Smaller law firm signatories

All 24 of the smaller signatory firms (defined as those firms with less than 50 lawyers) reported on the Target. Of these, 22 firms had less than ten lawyers, one firm had 18 lawyers and one had 40 lawyers.

Collectively these smaller law firms provided 4,089.7 hours from 123.5 FTE lawyers, or an average of 33.1 pro bono hours per lawyer for the 2009/2010 financial year.¹³

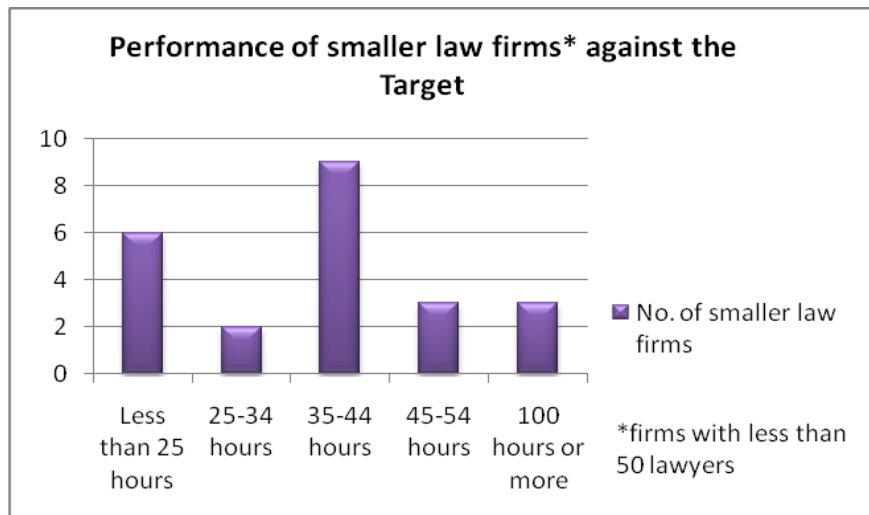
Looking at the 16 firms (66.6%) that met the Target, 79 lawyers provided a total of 3,752 hours of pro bono legal work or an average of 47.5 hours per lawyer per year. These figures suggest that 64 percent of lawyers covered undertook 91.7 percent of all pro bono work provided by smaller firm signatories.

The average participation rate among smaller firms was slightly higher than the overall law firm average at 71.3%, although this may be attributed to the pool of sole practitioners in the smaller law firm category.

Performance against the Target was as follows:

¹² The number of FTE lawyers at the seven large law firms that were signatories in both 2008/2009 and 2009/2010 decreased from 3,930.7 lawyers on 30 June 2009 to 3,681 on 30 June 2010.

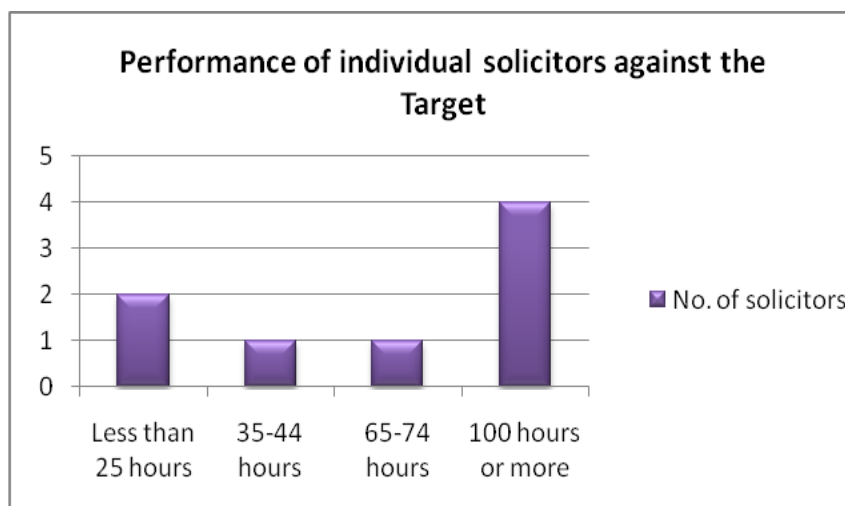
¹³ When the extraordinary hours of lawyers at the HRLRC are included, this figure increases to 7,689.7 pro bono hours between 129.3 FTE lawyers, or an average of 59.5 pro bono hours per lawyer for the 2009/2010 financial year



5. Individual solicitor signatories

Eight of the 11 individual solicitor signatories (72%) reported on their pro bono performance against the Target.¹⁴

Of those who reported, six solicitors (75%) met the Target, up from 71% in the 2008/2009 financial year. On average, each solicitor spent 114.5 hours undertaking pro bono work in the 2009/2010 financial year compared with 90.5 in 2008/2009. The spread of hours was as follows:



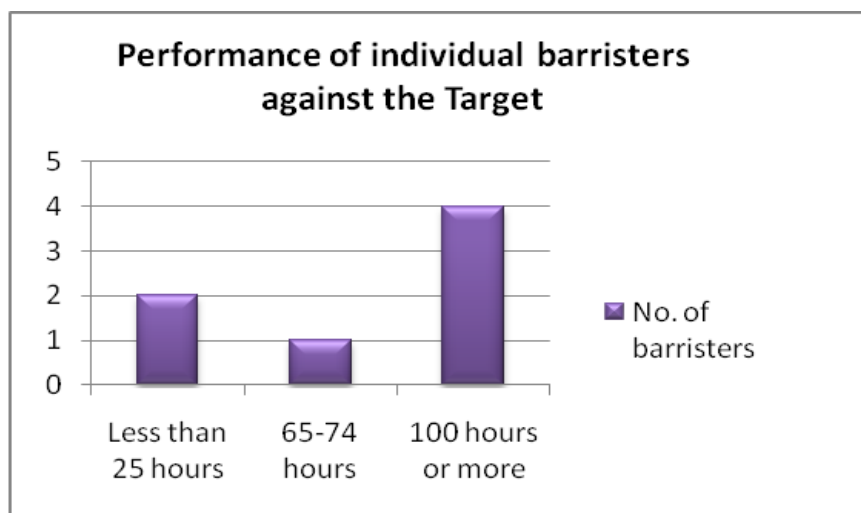
Four solicitors (50%) indicated that the Target led to an increase in pro bono hours undertaken, three solicitors (37.5%) indicated that the Target increased their focus on the needs of disadvantaged people and the organisations that assist those people, and another three (37.5%) reported that the Target had no effect.

¹⁴ The remaining three solicitors were unable to be contacted. Inquiries by the Centre suggest that they have ceased legal practice. If no response is received by September 2010, these solicitors will be removed from the Target signatories.

6. Individual barrister signatories

Seven of the 10 individual barrister signatories (70%) reported on the Target.¹⁵ Of those who reported, five (71%) indicated that they met the Target, up from 37% in 2008/2009.

On average, reporting barristers spent 107.6 hours on pro bono legal work during the 2008/2009 financial year. Those barristers that did not meet the Target reported that they did not expect to meet the Target in the next financial year due to family commitments.



Four of the seven respondents reported that the Target had no impact on the pro bono work undertaken, while two indicated that the Target increased their focus on the needs of disadvantaged people.

7. Conclusions and observations

Despite a decline in the number of Target signatories in the last year, the number of lawyers covered by the Target experienced strong growth, expanding by 23.4 percent.

This can, in part, be attributed to the increase in large law firm signatories, which now account for 92 percent of all legal professionals covered by the Target.

Remarkably, whilst many signatories were affected by the economic downturn and reported reductions in numbers of FTE lawyers, their overall pro bono contributions increased. This is a testament to the genuine and ongoing commitment of signatories to enhance access to justice for those who would not otherwise access legal assistance.

¹⁵ Four target signatories were removed from the list last year after failing to report on their performance against the Target in accordance with the Statement of Principles.

The 2009/2010 financial year was also marked by the implementation of changes to the Commonwealth government's procurement of legal services, which created incentives for law firms to sign up to the Target and lift their pro bono contributions.

8. APPENDIX 1 Target Signatories

As at 30 June 2010, the Target had the following signatories

Law Firm Signatories

Allens Arthur Robinson*

Aneesa Parker Pty Ltd**

Arnold Bloch Leibler*

Australian Government Solicitor

Ben Gelin Solicitors*

Blake Dawson*

Brock Partners*

Clayton Utz*

Connah Steed & Co*

Corrs Chambers Westgarth

DLA Phillips Fox

FoodLegal**

G & D Lawyers Pty Ltd

Gilbert+Tobin*

Henry Davis York

HHG Legal Group

Human Rights Law Resource Centre

Lander & Rogers**

Logical Legal Solicitors*

Marsh and Maher**

McInnes Wilson Lawyers**

McCullough Robertson**

McDonnell Schroder Solicitors*

McMillan Boylson*

McPhee Lawyers*

Minter Ellison Group**

Moulis Legal

Rostron Carlyle**

Ryan Lawyers*

Sachs Gerace Lawyers*

Sharah & Associates*

Siracusa Legal

Slattery Thompson*

Stella Stuthridge & Associates

Trindade Farr and Pill

Winn Legal*

Zeeman & Zeeman

Individual signatories¹⁶

Anthony Jucha*

Ashok Kumar

Craig McIntosh*

F.J. Purnell S.C.

Graham Jones*

Helen McGowan

Julia Lonergan*

Michael Tucak

Nerida Wallace

Nicholas Linke

Nick Eastman

Noeline Rudland*

Paul Kerr

Philip Greenwood

Richard Clarke

Richard Thomas*

Simon Freitag*

Stephen Rees*

* indicates Foundation Signatories

** indicates those signatories that signed up between 1 July 2009 and 30 June 2010

¹⁶ The three individual solicitors that ceased legal practice have been removed from this list.

9. APPENDIX 2 Statement of Principles

Law Firm Statement

MINDFUL of the professional responsibility of all lawyers to provide pro bono legal services to address the unmet legal needs of the poor and disadvantaged in the communities in which we live, and

RECOGNISING that pro bono is not a substitute for the proper funding by government of Legal Aid agencies, Community Legal Centres and other government funded legal services.

OUR FIRM is pleased to join with other firms across the country in subscribing to the following statement of principles and in pledging our best efforts to achieve the voluntary target described below.

- Our firm recognises its professional obligation to provide pro bono legal services.
- In furtherance of that obligation, our firm agrees to encourage and support the provision of pro bono legal services by all its lawyers.
- We agree to use our best efforts to ensure that, by no later than 30 June in each year, first year ending 30 June 2008, our firm's lawyers will undertake an average of a minimum of 35 hours of pro bono legal services each year per lawyer.
- In furtherance of these principles, our firm also agrees:
 - To provide training and supervision as required to enable our lawyers to meet the need for pro bono legal services in the community in matters undertaken by our firm, and
 - To monitor the firm's progress towards the targets established in this statement and to report its progress annually to the partners and staff of the firm and to the National Pro Bono Resource Centre.
- We acknowledge that when a lawyer provides pro bono legal services, he or she owes the pro bono client the same professional and ethical obligations that are owed to any paying client and accordingly the lawyer must give that work the same priority, attention and care as would apply to paid work.

Individual Lawyer (Solicitor or Barrister) Statement

MINDFUL of the professional responsibility of all lawyers to provide pro bono legal services to address the unmet legal needs of the poor and disadvantaged in the communities in which we live, and

RECOGNISING that pro bono is not a substitute for the proper funding by government of Legal Aid agencies and Community Legal Centres.

- I am pleased to join with other lawyers across the country in subscribing to the following statement of principles and in pledging my best efforts to achieve the voluntary target described below.
- I recognise my professional obligation to provide pro bono legal services.
- I agree to use my best efforts to ensure that, by no later than 30 June in each financial year, first year ending 30 June 2008, I will undertake a minimum of 35 hours of pro bono legal services each year.
- In furtherance of these principles, I also agree to monitor my progress towards the target established in this statement and to report annually to the National Pro Bono Resource Centre (the Centre) whether I have met the Target in the previous year.
- I acknowledge that when I provide pro bono legal services, I owe the pro bono client the same professional and ethical obligations that are owed to any paying client and accordingly I must give that work the same priority, attention and care as would apply to paid work.

Reporting

Each signatory should have in place systems to ensure that accurate records are kept of the pro bono work done. It is recognised that in exceptional circumstances the amount of pro bono legal work undertaken by a particular lawyer may need to be estimated by that person or his or her firm, for example pro bono coordinators spend time doing both vital administrative and pro bono legal work and are unlikely to record each separately.

In July each year the Centre will send to each signatory an email attaching a standard form which is to be completed and returned to the Centre.

Where lawyers are not in firms for the full year, the average figure to be worked out for a firm should be based on the number of full-time equivalent lawyers in the firm for the year. For a firm "lawyer" includes a law graduate and thus their pro bono hours can be counted.

The National Pro Bono Resource Centre intends to publish, within three months of the end of each year, in the categories of law firm, solicitor and barrister, the number of signatories and the percentage that have met the Target in the previous year in each category. It is NOT proposed to publish the names of those signatories that have met or not met the target.

These Statements were developed by the Australian National Pro Bono Resource Centre in 2006 and incorporate, in part, language developed by the US Pro Bono Institute and utilized in its Law Firm Pro Bono Challenge SM. That language is used with the specific permission of the Institute and cannot be further utilized, copied, disseminated, or adapted, in whole or in part, without prior written permission from the Institute. To request permission please contact the Institute at probono@probonoinst.org.