



**– National Survey –**

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

**December 2007**

## **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)

This work is licensed under a Creative Commons Attribution-Noncommercial-Share Alike 2.5  
Australia licence [www.creativecommons.org/licenses/by-nc-sa/2.5/](http://www.creativecommons.org/licenses/by-nc-sa/2.5/)

## **Acknowledgements**

Sincere thanks are due to:

- \* Associate Professor Belinda Carpenter, School of Law, QUT
- \* Social policy and research company *Urbis JHD*.
- \* Online research specialists, *Yellow Squares*, [www.yellowsquares.com.au/](http://www.yellowsquares.com.au/)
- \* Queensland Law Society for financial assistance
- \* All State and Territory Law Societies for their support
- \* Staff at NPBRC especially Jenny Lovric, Olivia Wellesley-Cole, John Corker, Lynne Spender & Laura Soley.

## CONTENTS

Acknowledgements .....	2
Executive Summary.....	4
12 key findings .....	4
Background to Individual Solicitor Survey.....	6
Methodology .....	6
Part 1: Survey results.....	9
1 Respondent lawyers .....	9
2 Who does pro bono work .....	12
3 What type of pro bono work is done.....	14
4 How pro bono work is undertaken.....	17
5 How much pro bono work is done.....	19
6 The recipients of pro bono work.....	21
7 Sources of pro bono work.....	21
8 Firm practice.....	23
9 Barriers to pro bono legal work .....	25
10 Attitudes and values to pro bono and to Legal Aid.....	26
Part 2: Issues .....	29
1 General policy concerns .....	29
2 Attitudes to legal aid .....	38
3 Issues relating to firm practice.....	40
4 The role of government .....	45
5 Particular state issues .....	46
Part 3: Appendices.....	48
Appendix I.....	48
Appendix II .....	58
Index .....	97

# Executive Summary

Aware that the Australian Bureau of Statistics (ABS) last surveyed the legal profession in 2001-2002<sup>1</sup>, and that it did not intend to survey the profession again until 2009, the National Pro Bono Resource Centre (the Centre) planned its own series of national surveys of pro bono practice. The aim was to collect data about current pro bono practice by surveying individual solicitors, barristers and law firms in each State and Territory and to then assemble and publish the findings.

Commencing in early 2006, a pilot survey of individual solicitors was conducted online in Queensland. Other States and Territories were surveyed during 2006-2007, using a slightly modified online questionnaire. Data about individual solicitor respondents, from age and seniority to type, location and policies of their firm, details of their pro bono practice and their attitudes to pro bono and to Legal Aid work, were compiled and cross-referenced to produce this Report.<sup>2</sup>

Of the 887 individual solicitors who responded to the survey, 710 (80%), had undertaken some pro bono work in the previous 12 months (see **Table 1**) and half had done more during that time than in the previous 12 months. The two main reasons given for undertaking pro bono work were helping the disadvantaged (90%) and a sense of professional responsibility (84%).

Survey data indicated that pro bono work was fairly equally distributed between individual clients and not-for-profit organisations, including community legal centres. There was a significant amount of volunteering undertaken outside of law firm programs and some lawyers participated in pro bono work both within their firm and through volunteering, outside of work hours. Whether undertaken for clients of a firm or with not-for-profit organisations, pro bono legal work was mainly in the form of advice.

The least likely form of pro bono assistance was law reform and policy work; those least likely to do pro bono work were suburban lawyers in the first year or two of their careers. This changed quite dramatically for those in practice between three and five years who were most likely to do more than 90 hours pro bono work a year. Of the three main client groups identified (individuals, community legal centres and other not-for-profit organisations) the group least likely to receive pro bono assistance was the community legal organisation, although not-for profit organisations generally (including community legal organisations) receive only marginally less pro bono assistance than individual clients.

## 12 key findings

While there were many interesting trends revealed in the survey data, the Centre has highlighted 12 key findings:

1. 80% of the respondents had done some pro bono legal work in the past 12 months;
2. 52% of respondents had done more pro bono work in the past 12 months than in the previous 12 months, 29% reported no change and 13% had done fewer hours in the past 12 months than in the previous 12 months; more city and suburban lawyers than country lawyers reported an increase;
3. The main source of pro bono was referrals (from CLCs or PILCHs), followed by direct requests from existing clients. The lowest level of referrals came from Indigenous Legal Organisations (see **Figure 13**);
4. The area of law in which the greatest percentage (21%) of respondent practitioners offered pro bono services, across all States and Territories, was debt law. This was followed by criminal law, then litigation, then family law (see **Figure 7**);
5. The main obstacle to pro bono work across all States and Territories was 'lack of time';
6. The average number of pro bono hours per year for the 887 survey respondents was 42.5 with over 60% of respondents undertaking more than 35 hours of pro bono work (the Centre's aspirational target figure) during the past 12 months (see **Figure 11**);

---

<sup>1</sup> Legal Practices 2001-2002 ABS document 8667.0 June 2003

<sup>2</sup> Survey questions are reproduced at Appendix I; responses are reproduced at Appendix II.

7. Victorian respondents had the highest median number of hours of pro bono work each year (50 hours); NSW respondents had a median of 40 hours; Queensland had a median of 31-40 hours; other States and Territories combined had a median of 41-50 hours;
8. 94% of pro bono work across States and Territories was in the form of advice (see **Table 1**);
9. Overall, the hours spent on pro bono work paid for by employers were approximately the same as the hours spent on unpaid pro bono work;<sup>3</sup>
10. Approximately the same number of respondents delivered pro bono services to individuals as to not-for-profit organisations, including Community Legal Centres (see **Table 1**);
11. Only 21% of respondents had done Legal Aid work in previous 12 months (see **Figure 17**);
12. 94% of respondents agreed that lawyers should do pro bono work; the top two factors nominated as reasons for undertaking pro bono work were helping the disadvantaged (90%) and a sense of professional responsibility (84%).

**Table 1**

**Snapshot of pro bono work in Australia**

<b>All States &amp; Territories</b>		<b>Total</b>	<b>%</b>
How pro bono legal work was done in past 12 months? (note some do more than one)	PB work 'in firm'	549	77%
	PB by volunteering	296	42%
	Other <sup>4</sup>	174	25%
	<b>Total</b>	<b>710<sup>5</sup></b>	
What pro bono legal work done in the past 12 months?	Advice	666	94%
	Litigation	235	33%
	Representation	227	32%
	Transactional Services	164	23%
	Negotiation & Alternative Dispute Resolution	165	23%
	Law Reform & Policy	101	14%
	Community Legal Education	121	17%
	Other <sup>6</sup>	61	9%
	<b>Total</b>	<b>710</b>	
Client groups for pro bono undertaken in last 12 months?	Individuals	504	71%
	Not for profit organisations (including CLCs)	483	68%
	Clients not Identified	22	3%
	<b>Total</b>	<b>710</b>	

As well as responding directly to specific questions about their pro bono practice, which are reported in **Part 1** of the Report, respondents were asked *Is there anything else that you think it would be useful for us to know about your pro bono work?* This brought a huge range of responses, which have been compiled in **Part 2** of the Report. Two major issues emerged. The first relates to the definition of pro bono, about which there is still some controversy. The second relates to Legal Aid, with many respondents expressing dissatisfaction with the current arrangements.

The Centre is now undertaking national surveys of barristers and law firms and aims to have the results of these surveys available during 2008.

<sup>3</sup> ABS studies have only recorded 'pro bono' hours as those spent on paid pro bono work, within the firm.

<sup>4</sup> 'Other' included, for example, membership of boards, committees of NGOs, prison outreach; training in corporate governance.

<sup>5</sup> The 710 figure is the total number of respondents who had undertaken some pro bono work in the previous 12 months.

<sup>6</sup> 'Other' pro bono work done included, among others: wills, power of attorney, guardianship; mentoring; preparing submissions; schools liaison.

## Background to Individual Solicitor Survey

The National Pro Bono Resource Centre (the Centre) is an independent, not-for-profit organisation established to support and promote pro bono legal services in Australia. It was set up following the report and recommendations of the National Pro Bono Task Force (2001) and commenced operation in August 2002. It is funded by the Attorney-General Departments of the Commonwealth, States and Territories and is based at the Faculty of Law at the University of New South Wales.

Aware of the paucity of reliable data relating to pro bono practice in Australia, the Centre has for some time been collecting and publishing materials in order to document pro bono service delivery across the States and Territories.<sup>7</sup> However, as little information is currently available about how much pro bono is undertaken and delivered, by whom and for whom, the Centre decided to undertake its own series of surveys. By conducting separate national surveys of individual solicitors, barristers and law firms, the Centre aimed to establish its own information base about Australian pro bono practice, both to provide an accurate picture of current pro bono practice and to establish a yardstick by which to measure and assess future developments.

### **Methodology**

The overall design of the first round of surveys was developed in consultation with a qualitative research specialist at Urbis JHD, an independent social policy and research company, and with Associate Professor Belinda Carpenter, School of Law, Queensland University of Technology (QUT). The survey questionnaire was designed by the Centre to ascertain who had done pro bono work in the previous 12 months – for whom, what sort of work and how much, but also to elicit information about practice issues such as record keeping, tracking, written policy, recognition and credit, sources of work, constraints and areas for possible improvement. The survey was then sent to online research specialists, *yellowSquares*, for conversion to a web-based survey.

In 2006, a pilot study was undertaken in Queensland in conjunction with Associate Professor Belinda Carpenter from QUT and with financial assistance and cooperation from the Law Society of Queensland (QLS). The pilot, and the subsequent surveys were web-based, with links to the survey available to potential respondents through various channels including emails and e-newsletters from their Law Societies and through the Centre's website.

The decision to approach individual solicitors through their Law Societies was taken so that the survey might access the greatest number of solicitors with practising certificates (potentially 100%) across Australia. However, by the time the surveys were run, membership of Law Societies had ceased to be compulsory and this meant that in some States, the practitioner community that could be accessed via the Law Societies was slightly lower than planned. In the Australian Capital Territory, Northern Territory, Tasmania and Western Australia, 100% of solicitors were accessible through their Law Societies. For the other States, over 75% of solicitors were accessible through the Societies. Because invitations to participate were primarily through the Law Societies, we anticipated low responses from academic, corporate and government lawyers and not surprisingly, responses relating to these groups are numerically small.

Using the Queensland survey as a prototype, solicitors in other states were subsequently approached to complete a modified version of the original survey.<sup>8</sup> These surveys took place as follows:

- New South Wales (October 2006 - January 2007)

---

<sup>7</sup> See *Mapping pro bono in Australia*, NPBR 2007

<sup>8</sup> Some questions in the Queensland survey were modified either to make the question clearer or to allow a clearer result to emerge - while still enabling most of the results from all states and territories to be compiled and compared. Where categories or questions differ, this has been noted in the report and commented on.

- Victoria (September 2006 - February 2007)
- Tasmania (April - June 2007)
- South Australia (September 2006 - January 2007)
- Western Australia (September 2006 - January 2007)
- Northern Territory (March - May 2007)
- Australian Capital Territory (November - December 2006).

Efforts were made to encourage Law Society members to complete the Survey. Multiple follow-up emails, which included the web link to the survey, were sent to members from their Law Societies. Flyers were distributed by the Centre, offering a prize in each State and Territory to the solicitor who suggested the most imaginative collective noun for a group pro bono solicitors. In addition, the Survey was promoted on the Centre's own website and by the Australian Lawyers' Alliance.

Access to the Surveys was provided to the Centre by a separate web-link for each State and Territory. This link was promoted by each of the Law Societies, as well as being listed on the Centre's own website. On-line software from *yellowSquares* was used to monitor progress of the respondents by showing frequency charts for each question of the survey; this also assisted in determining the effectiveness of the various promotional methods. When the survey was completed in a specific state, the relevant link was closed off. The data were downloaded by *yellowSquares* to the Centre as a spreadsheet and analysed using SPSS™ statistical analysis software. Results were finally exported to Excel spreadsheet and processed for presentation as tables and charts.

### **Definition of pro bono legal work**

As the Centre stated in *Mapping Pro Bono in Australia* (May 2007), there is no universally accepted definition of what is meant by pro bono legal work. The definition adopted for the survey was based closely on the Law Council of Australia definition of 1992 but clarified some 'grey areas' to facilitate a 'like with like' comparison of responses from those who might otherwise have differing views about the definition of pro bono.

Some of these areas included whether time spent sitting on the boards of community organisations, or legal assistance given to family or friends without reference to whether he/she can afford to pay for that assistance, should be considered pro bono legal work. Community service work, which more broadly could be said to be 'pro bono', (ie. for the public good), was specifically excluded as the Centre was seeking information about legal work and assistance.

There is a major distinction between the ABS methodology and the methodology used by the Centre in relation to the definition of pro bono legal work. The Centre definition is provided in Appendix I to this Report<sup>9</sup> and specifically excludes work carried out under a grant of Legal Aid; the ABS survey included Legal Aid in its definition.<sup>10</sup>

### **Individuals vs practices/organisations**

The Centre survey measured the activities of *individual solicitors* in carrying out their pro bono legal work, both as volunteers and as part of their paid employment. The ABS surveyed and measured the activities of *legal practices / organisations*<sup>11</sup> only. The Centre's data are therefore based on the records and estimates of the individual solicitors doing the work (64% of whom kept their own records)<sup>12</sup>; the ABS states that its data regarding pro bono work were based on estimates provided by legal practices, many of which did not keep records.<sup>13</sup>

### **Survey details**

This Report presents key findings and issues that emerged from the overall responses of the 887 individual solicitors who completed the survey. The results have been combined to provide a picture of

---

<sup>9</sup> Appendix 1, Glossary p9

<sup>10</sup> Above fn 1, page 12, table 2.10 & table 3.7

<sup>11</sup> Above fn 1, explanatory note 3 "Statistical Unit"

<sup>12</sup> Appendix II, table 6.4

<sup>13</sup> Above fn 1, explanatory note 24 "Reliability of Data"

pro bono work nationally. Some State and Territory specific issues and patterns can be discerned in both the survey results (**Part 1**) and respondents' comments (**Part 2**).

The information in the Report is based on responses to questions<sup>14</sup> about:

1. Respondent lawyers (age, gender, years of practice, position, employment status, area of practice); and details of the law firm (location, number of partners and lawyers);
2. Who does pro bono work (by state, type of practice, geography, age & seniority);
3. What type of pro bono work is done (eg. advice, litigation, law reform work);
4. How pro bono work is undertaken (eg. in firm, volunteering, secondments);
5. How much pro bono work is done (including a breakdown by type of pro bono assistance and whether such work is increasing);
6. The recipients of pro bono work;
7. Sources of pro bono work;
8. Firm practice (firm policies and attitudes);
9. Barriers to pro bono legal work;
10. Attitudes and values (eg. to 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. Some of those comments have been compiled and included in **Part 2 Issues**.

**Part 3** of the Report consists of two Appendices. **Appendix I** provides details of the survey questions (with attached glossary, including the definition of pro bono used in the survey); **Appendix II** includes a series of graphs and tables relating to information in **Part 1** of the Report. The full Report and links to statistical results, broken down by State and Territory, will be made available on the Centre's website.

While the data in this Report are based on a relatively small sample, it appears to be broadly representative of the individual solicitor profession as a whole. The sample reflects a mix of gender, age, seniority, geographic location and type and size of firm.

Some clear trends and issues emerge and we have endeavoured to represent these accurately. If there is a bias in the sample because individual lawyers who completed the individual solicitor survey were more likely to be interested in pro bono issues, the bias is obviously towards those who are doing pro bono work.

We wish to thank the Law Societies, all of whom supported the survey project by contacting their members and inviting them to participate.

We welcome comment and feedback about issues in this Report or in relation to other issues relevant to Australian pro bono legal practice. Please send all comments to [survey@nationalprobono.org.au](mailto:survey@nationalprobono.org.au).

December 2007

---

<sup>14</sup> Survey questions are included in Appendix I.



# Part 1: Survey results

## 1 Respondent lawyers

A total of 887 solicitors across Australia chose to respond to the survey. The largest response from any one State was from New South Wales (36.9% of respondents), followed by Queensland (25.4%), then Victoria (22.5%). Of the 887 respondents, 710 (or 80%) reported having done some pro bono work in the previous 12 months (see **Table 2**).

The survey includes lawyers from all States and Territories, from the big and small end of town, from city to country and, inevitably, small numbers of lawyers in remote areas. The survey sample covers a range of practice areas, ages and levels of seniority. While exact figures for the current number of legal practitioners are unavailable, the 887 respondents to the survey represent approximately 2.54% the members of Australian State and Territory Law Societies (see **Table 2**). On the basis of the number of potential respondents, Tasmania (4.95%) and Queensland (3.75%) had the highest percentage response rate.

### Number and percentage of respondents

Table 2

State	Number of Respondents	% of Survey	Number of Law Society members <sup>15</sup>	% of Law Society members who responded
ACT	7	0.8%	1,200	0.58%
NT	9	1.0%	460	1.95%
Tas	23	2.6%	465	4.95%
SA	43	4.8%	2,800	1.53%
WA	53	6.0%	2,435	2.17%
Vic	200	22.5%	13,000	1.50%
Qld	225	25.4%	6,000	3.75%
NSW	327	36.9%	20,300	1.60%
<b>Total</b>	<b>887</b>	<b>100.0%</b>	<b>34,960</b>	<b>2.54%</b>

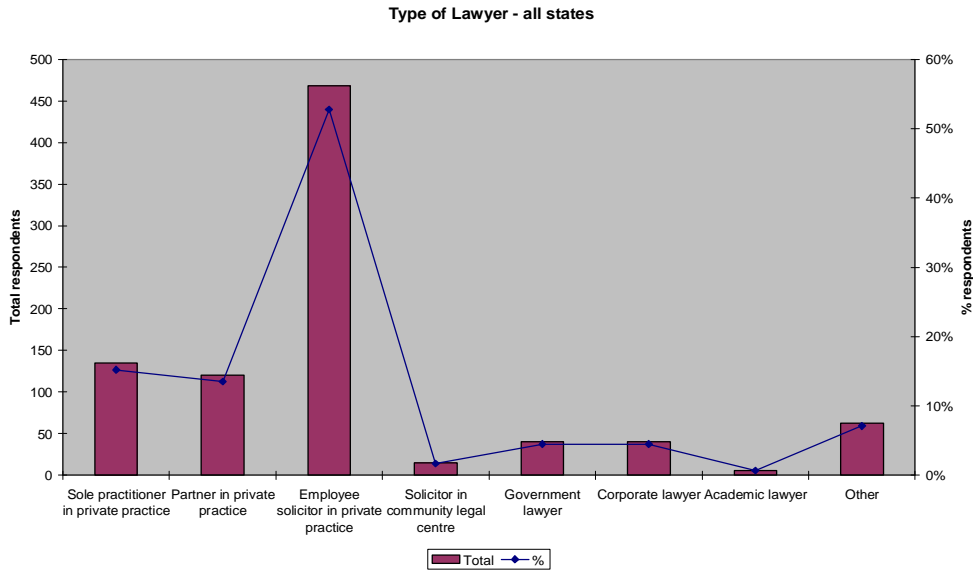
### Type of lawyer

The majority of respondents were clearly employee solicitors in private practice, followed some way behind by sole practitioners and partners in private practice. On average:

- 52% of respondents were employee solicitors in private practice
- 15% were sole practitioners
- 12% were partners in private practice
- 6% were government lawyers
- 6% were corporate / in-house lawyers
- 2% were solicitors in CLCs
- 1% were academic lawyers
- 6% describe themselves as 'other' (ie. barristers, articled clerks, paralegals, directors of various organisations and consultants).

<sup>15</sup> These figures were taken from current (2006-2007) Annual Reports on Law Society websites or from information provided by the Law Societies themselves

**Figure 1**



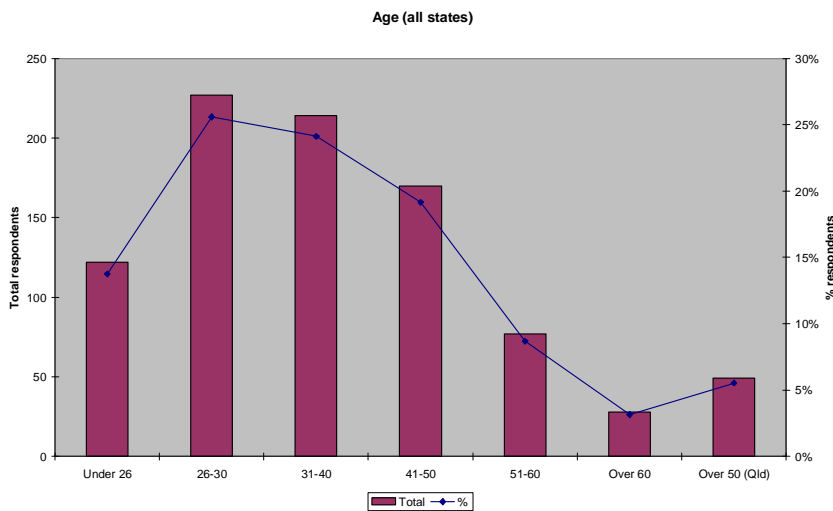
A quick comparison with figures from New South Wales Law Society Profile of Members at 1 June 2007 reveals that the survey sample<sup>16</sup> was reasonably representative of the general demography of their member solicitors. For example, the Law Society statistical profile indicated that 72% were in private practice compared to 79% in the survey (sole practitioners, partners and employees in private practice).

Because the Centre survey offered eight separate categories (as in **Figure 1** above), and the actual numbers of government, corporate and academic lawyers were so small, we could not directly compare survey respondents in these categories and those in the three categories of practitioner (ie. 72% private, 11% government and 17% corporate) nominated by the Law Society in their 2007 Profile.

**Age & seniority**

While the largest proportion of respondents was in the 26-30 age group, the national median age of respondents was 31-40. Again this is reasonably close to the statistical results from the New South Wales Law Society Profile where 50% of the sample were 39 years of age or under.

**Figure 2**



<sup>16</sup> NSW had the largest number of respondents to the survey (327) and constituted 36.9% of total respondents.

The largest numbers of survey respondents, on a seniority scale, were those who had been in practice between 3-5 years and those who had been in practice between 11-20 years. This roughly parallels the NSW Law Society information where the two largest groups of practitioners are those who have been in practice between one and five years (24%) and those in practice for more than 15 years (36%).

The survey showed a surprising ‘dip’ nationally in responses from the group who had been in practice between 6-10 years (see **Figure 5**). This corresponds roughly with the New South Wales Law Society figures where there is a drop for those in practice between 6-10 years and a further drop for those in practice 11-15 years. This gives an indication that a reduction in pro bono activity at this level of seniority may be associated with numbers of people practising, rather than a general reduction in pro bono activity at this stage of lawyers’ careers.

**Areas of practice**

The three main areas of normal (not pro bono) practice listed by all respondents were:

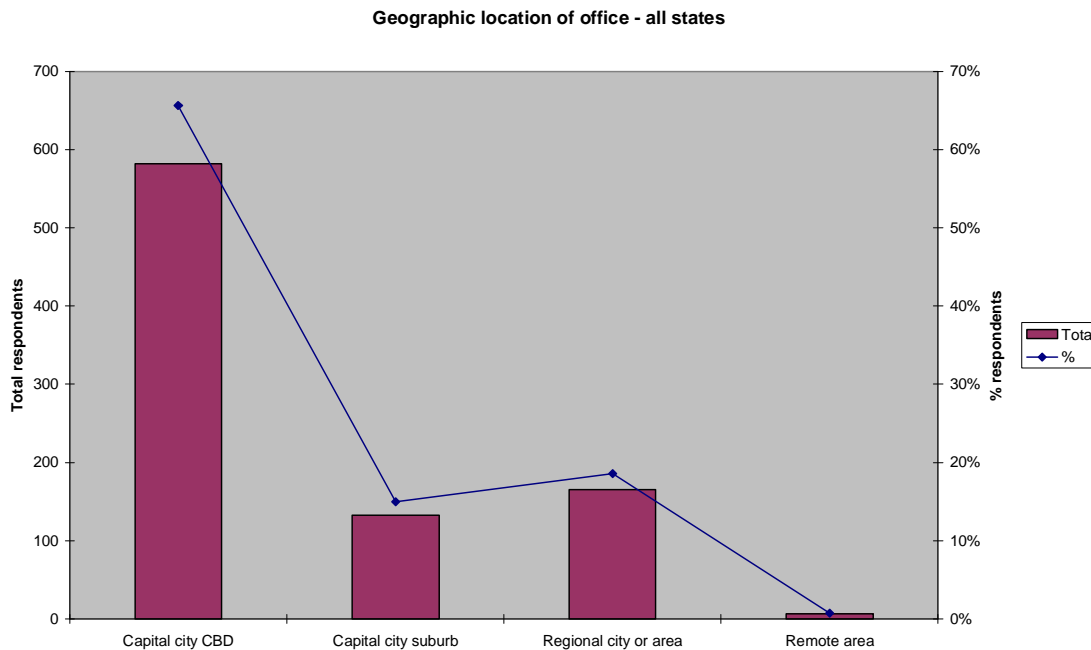
- litigation;
- company/commercial law;
- probate/wills and estates.

Other common areas of practice were property law, employment law, criminal law, powers of attorney, followed by debt, administrative law and personal injury. Less common areas were domestic violence, immigration, intellectual property, insurance, tax and bankruptcy. Areas least represented in the sample were construction, social security, and housing and tenancy law. Interestingly, the relationship between the respondents’ normal areas of practice – and their area of pro bono work was quite complex (see **Figure 7**).

**Geographic location**

Nearly 66% of responses came from lawyers working in a capital city CBD with 15% in capital city suburbs and nearly 20% in regional cities or areas.<sup>17</sup> Not surprisingly, fewest respondents were located in remote areas. Over 50% of respondents worked for firms that had more than one office.

**Figure 3**



<sup>17</sup> NSW Law Society Profile figures for 1 June 2007 are 51.25% city solicitors; 30.78 suburban and 13.36 ‘country’ solicitors which vary somewhat from our sample. Note however, that that NSW Law Society figures in the 2004-2005 Annual Report closely approximate those in the sample with 57% city, 26% urban; 13% rural.

## Type of firm

26% of respondents worked in sole practice offices and 38% worked in large firms with over 10 partners. The figures for all states excluding Queensland show that one third of respondents worked in firms with fewer than six lawyers (including partners) and 45% worked in firms with over 40 lawyers. In Queensland, firms with between two and five 'fee-earners'<sup>18</sup> had the highest number of respondents at 35%. Only 16% came from firms with over 40 fee earners, probably reflecting that there are fewer large practices in the Queensland sample than in the overall sample.

## Gender

56% of the respondents were female and 44% were male; the profile of New South Wales solicitors at 1 June 2007 was 44% female and 56% male.

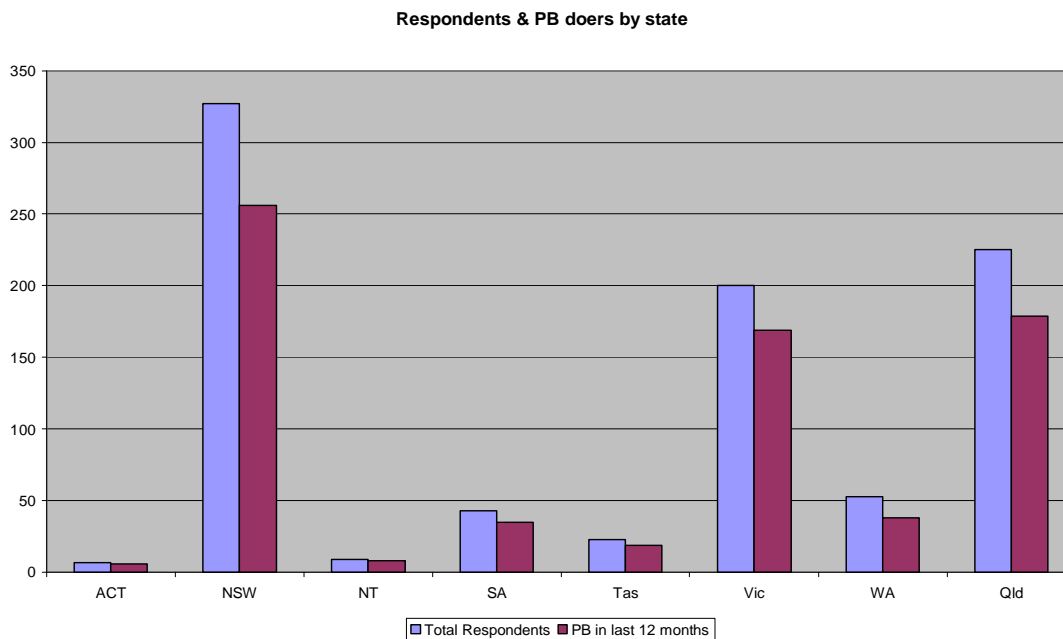
## Work hours

89% of survey respondents worked full-time; 11% worked part-time. There are no figures from the New South Wales Law Society profile that allow us to do a comparison.

## 2 Who does pro bono work

The percentage of respondents undertaking some pro bono was fairly consistent across States and Territories, with variations from 72% to 89%.

Figure 4



It should be noted that while the actual numbers of respondents from the Australian Capital Territory, the Northern Territory and Tasmania were statistically small, their percentages for undertaking pro bono were generally in line with the results from the larger states.

## Who are the people who have never done pro bono work?

Queensland and Western Australia have the highest percentage of respondent lawyers who have never done pro bono (see **Table 4**).

<sup>18</sup> While asked the same question as employed solicitors in other States and Territories, Queensland respondents were asked about 'fee-earners'.

From cross-tabulating results, those who have never done pro bono are most likely to be:

- those in their first 1-2 years of practice; and
- suburban lawyers.

**Table 4**

	Total Respondents	PB in last 12 months	PB legal work previously	Never done PB	% never done PB
ACT	7	6	1	0	0%
NSW	327	256	44	27	8%
NT	9	8	1	0	0%
SA	43	35	6	2	5%
Tas	23	19	2	2	9%
Vic	200	169	20	11	6%
WA	53	38	9	6	11%
Qld	225	179	22	24	11%
<b>Total</b>	<b>887</b>	<b>710</b>	<b>105</b>	<b>72</b>	<b>8%</b>

### Pro bono and type of practice

The percentages of sole practitioners and partners in private practice who undertake pro bono are remarkably similar across States and Territories. Sole practitioners come in at 89% and partners at 88%. The figures for employee solicitors in private practice are slightly less (78%) and are closer to the group of ‘others’ (ie. those not in private practice) of whom 73% report having undertaken pro bono work in the previous twelve month period.

While the numbers for corporate and government lawyers are small, they have the lowest percentage of people undertaking pro bono work. This result is supported by material in the Centre’s *Mapping pro bono in Australia*<sup>19</sup> where figures quoted from the New South Wales Law Society Practising Certificate Survey 2003-2004 indicate that 54% of private lawyers, but only 18% of government lawyers, do pro bono work.<sup>20</sup> Similarly the 2003-2004 New South Wales Law Society figures show that of the 14% of members who practised as corporate lawyers, 18% reported doing pro bono work.

In the Centre’s study, slightly more women than men reported doing some pro bono work – and this may be a reflection of the fact that slightly more women than men were included in the overall sample.

On a percentage basis, solicitors in CLCs emerge with the highest rate of pro bono work - with 93% of the (small) sample (2% of overall numbers) having done some pro bono work in the previous 12 months. This seemed so high, that we looked for factors that might have skewed this result and realised that the definition of pro bono (see **Appendix I**) may have been the reason. If some of the CLC solicitors included all of their work to all client groups as pro bono work rather than as ‘normal practice’, it would explain the very high figures for this group.

### Geographical location

Geographical location did not appear make much difference to the amount of pro bono work undertaken by individual solicitors. About the same percentage of lawyers are involved, whether they work in the city, the suburbs or in regional and remote locations. This contrasts with previous information (see NSW Law Society Practising Certificate Survey 2003-2004) which indicated that more country lawyers (71%) than suburban (56%) lawyers do pro bono work and both do more than city lawyers (47%). The discrepancy may be due to the fact that mainly people in city and suburban practices responded to the

<sup>19</sup> *Mapping Pro Bono in Australia* (2007) pp 24-27

<sup>20</sup> See Part 2, Issue 4: The role of government

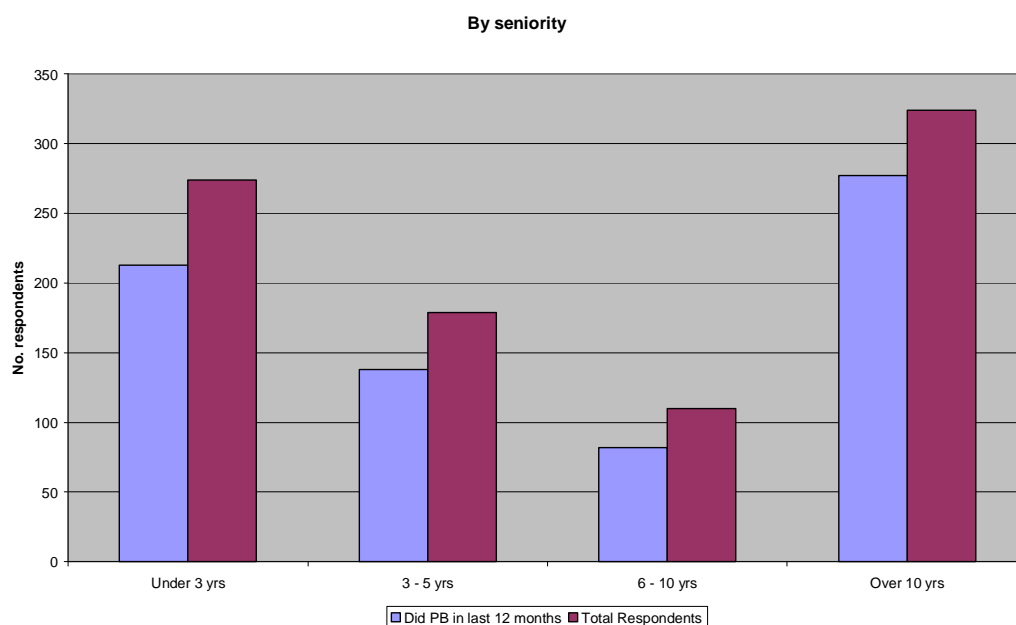
Centre's survey or it may be that more city and suburban lawyers are doing more pro bono than in 2003-2004. Certainly, 56% of city and 45% suburban lawyers reported an increase in pro bono in the previous 12 months while 41% of country lawyers reported an increase (see below, **4 How much pro bono work is done**). It has also been suggested that the change may be attributable to increased financial pressures on regional practices and an increase in structured pro bono work in large city firms.

### Age & seniority

Age was not a major factor in determining who did pro bono work. Nor was seniority although the survey revealed a slight tendency for more lawyers to do pro bono work as they get older and a corresponding tendency for more of them to do pro bono work as they become more senior. These two characteristics also affected what sort of pro bono work was undertaken and for whom.

Those who had been in practice for 30 years or more were more likely than other groups to do transactional work (as the second highest type of work after advice) and more likely to do it for not-for-profit organisations than for individuals. This is quite a different pattern from those still in the early years of practice, who are more likely to do advice work and to do it for individuals.

**Figure 5**



In their responses to a question asking why lawyers should do pro bono work, those who have been practising for 3-5 years were more likely than other groups to list ‘broadening their legal skills’. (See possible alternative answers, **Appendix I, Section 11.2**). They are also most likely, as a group, to do more than 90 hours pro bono work a year.

### 3 What type of pro bono work is done

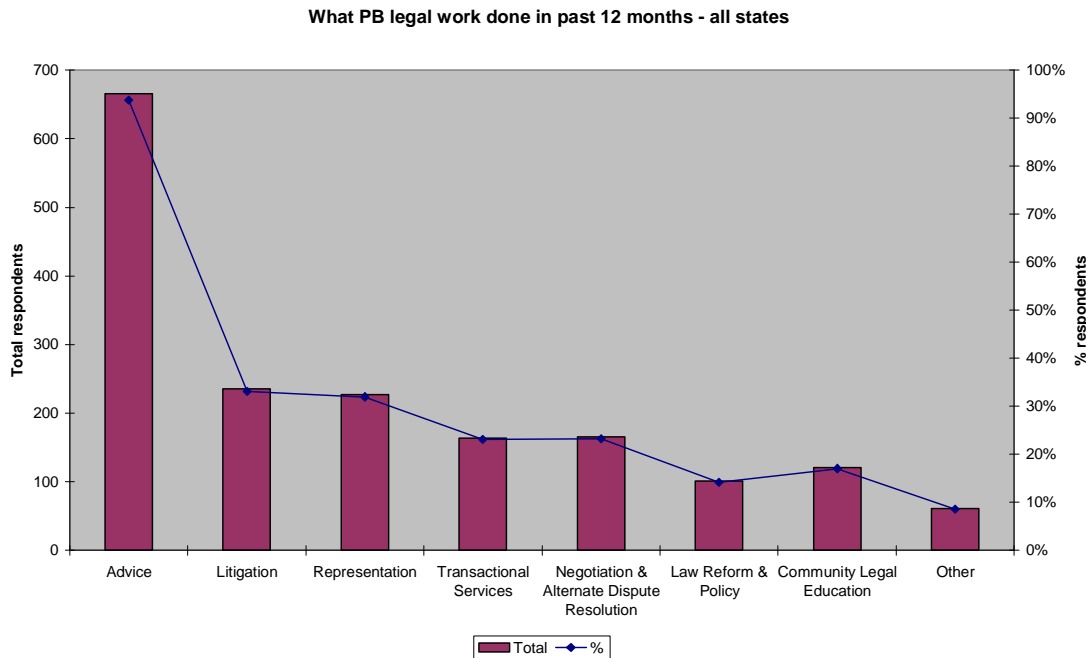
Nationally, a remarkable 94% of work done across States and Territories is in the form of advice. The very high figure possibly reflects the fact that advice is the most common form of legal service generally – and is perhaps the only form for many pro bono clients whose legal problems are resolved at this level.

It may also be that advice work is the most manageable form of legal service. Advice need not be ‘face-to-face’ and can be undertaken over the phone, by email or in writing and at times that are convenient for the individual lawyer or firm.

When the data is analysed by type of lawyer, after advice, sole practitioners are most likely to do representation work and then litigation. They are least likely to do law reform or policy work or ‘other’.<sup>21</sup>

Partners in private practice mainly do advice work, and are slightly more likely to do transactional work than representation work and litigation. They too are least likely to do law reform or policy work or ‘other’ pro bono work.

**Figure 6**



Employee solicitors mainly do advice, then representation and litigation and while law reform and policy work is at the bottom of their list, it sits at about the same level as community legal education. Solicitors in CLCs also place advice work at the top, followed by community legal education and are then spread evenly across representation, litigation and law reform and policy work.

Government and corporate lawyers are a bit more varied in the spread of their pro bono work. While both nominated advice as their main form of pro bono, they also nominated negotiation and alternative dispute resolution and law reform and policy work at higher levels than litigation, representation and community legal education.

Academic lawyers all nominated advice as part of their pro bono work. Their second highest category was law reform and policy work and community legal education, then litigation. The survey sample, which was small (1% of the total), did no representation work (for which they would need a practising certificate) and no transactional work.

**Areas of pro bono practice**

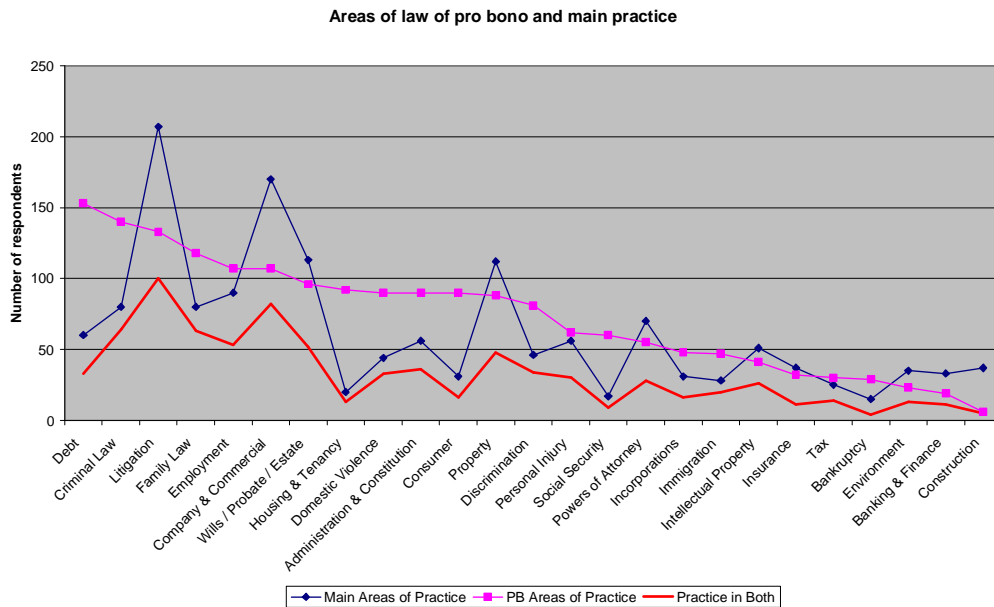
Respondents, on average, nominated three main areas of normal practice and three to four areas of pro bono practice. The largest area of pro bono practice across all States and Territories was debt law where 21% of all respondents had done some pro bono. Interestingly, fewer than 50% listed debt law as their major area of normal practice. This may reflect debt law as a major area of need or it may be that dealing with issues relating to debt law are manageable by most lawyers, regardless of their area of normal practice and expertise. Of course it may reflect both of these possibilities, and others.

<sup>21</sup> ‘Other’ includes membership of boards, law society and other committees, neither of which falls within the definition of pro bono used for this survey, but they are nonetheless considered by a sizable number of respondent practitioners as a form of pro bono work.

**Figure 7<sup>22</sup>** shows that of the listed areas of pro bono practice, debt law is followed by criminal law, litigation and family law. Banking and finance and construction law have fewest participants, perhaps because there are other avenues (such as the Banking Ombudsman) and government run organisations that provide assistance, such as the NSW Fair Trading Centres and their counterparts in other states.

The ‘Main Areas of Practice’ line moves up and down in relation to the ‘PB Areas of Practice’ line, indicating that there is no simple relationship between the two. The main areas of practice for the respondents are litigation (207) and company/commercial law (170). In each case, only about half of the respondents also did pro bono in these areas, with the other half making their pro bono contribution in other areas of law. Bankruptcy was the area of normal practice for fewest respondents.

**Figure 7**



The third line in **Figure 7**, ‘Practice in Both’, shows the respondents who have at least one area of pro bono and normal practice in common. Litigation has the highest score, then company and commercial law, paralleling the data for the two main areas of normal practice. What is of particular interest is that the difference between the ‘Main Areas of Practice Line’ and the ‘Practice in Both’ gives an indication of the areas of law where there are skills available that are not being utilised in pro bono work. This may be because there is no demand for them, or it may reflect the respondents’ interest in undertaking pro bono in areas outside their normal legal practice.

The gap between the ‘Pro Bono Areas of Practice’ line and the ‘Practice in Both’ line indicates those who are undertaking pro bono work in areas other than their normal area of practice. This may also be because it is an area of interest, or one where they have practised before – or a response to a particular need for pro bono services at this time. As suggested previously, it may also be a pragmatic response indicating that the area of pro bono work is one in which they feel competent and which can be most easily managed by the firm or individual.

**Figure 7** shows that pro bono service is offered widely across many areas of law. Other areas of pro bono practice named by respondents included trade practices, town planning, gay and lesbian law and de facto relationship property disputes, telecommunications, technology, sport law, small business, insolvency and leasing. Property matters of various sorts included property development, property and local government. Administrative law was specifically mentioned as were mining, mediation and maritime law. Areas listed in association with Aboriginal and Torres Strait Island clients were child protection and native title.

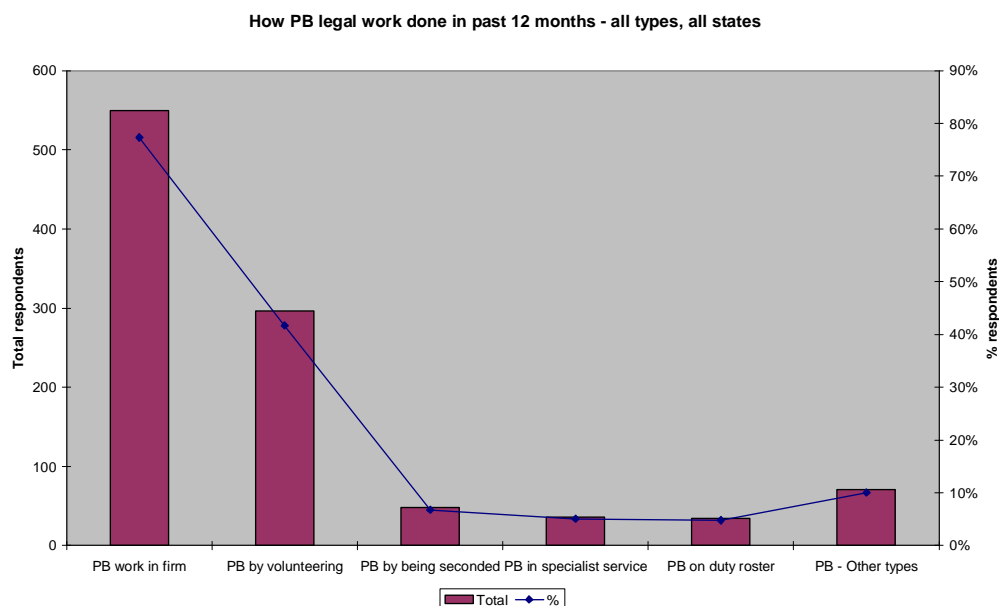
<sup>22</sup> **Figure 7** applies to all states/territories, except Queensland and relates to the 531 respondents in that group who undertook pro bono in the previous 12 months



## 4 How pro bono work is undertaken

A total of 710 of the 887 respondents to the survey did pro bono last year (ie. 80%). Of these 549 did pro bono in-firm, 296 volunteered and 174 did secondments, duty roster or specialist service work. ‘Other types’ of pro bono were nominated by 10% of respondents (see fn 20).

Figure 8



By percentage, these figures are:

- 77% in-firm, presumably during work hours and as part of the firm policy;
- 42% in the form of volunteering, most of which would have been done outside of normal working hours. Of the 549 people who did in-firm pro bono, 172 (31%) also volunteered, indicating a commitment to pro bono among the particular lawyers in this survey;
- 25% as secondments to a community organisation (7%), participation in law firm specialist services (5%) and duty rosters at a court or tribunal (5%).

Of those who volunteered, 71% did so through community legal centres or services,<sup>23</sup> 38% went to another form of not-for-profit organisation and 4% to ‘other’ organisations (universities, law societies and at private functions). Obviously some respondents did more than one of these.

Of those who were seconded, 46% went to a not-for-profit organisation, 40% went to community legal centres or services, 15% went to a Public Interest Law Clearing House (PILCH). Almost 75% of secondments were on a part-time basis and the most common periods were for over 12 months (38%), 4-6 months (23%) and 1-3 months (15%). There were few secondees in the 7-12 month category (2%).

### Paid and unpaid pro bono work

Respondents in all states and territories except Queensland were asked how much of their work was done as a part of their paid employment. There were 24% who undertook pro bono work without pay, and 51% for whom most (81-100%) of their work was done as paid work. In the middle, 26% did between 1-80% of their pro bono work as paid work.

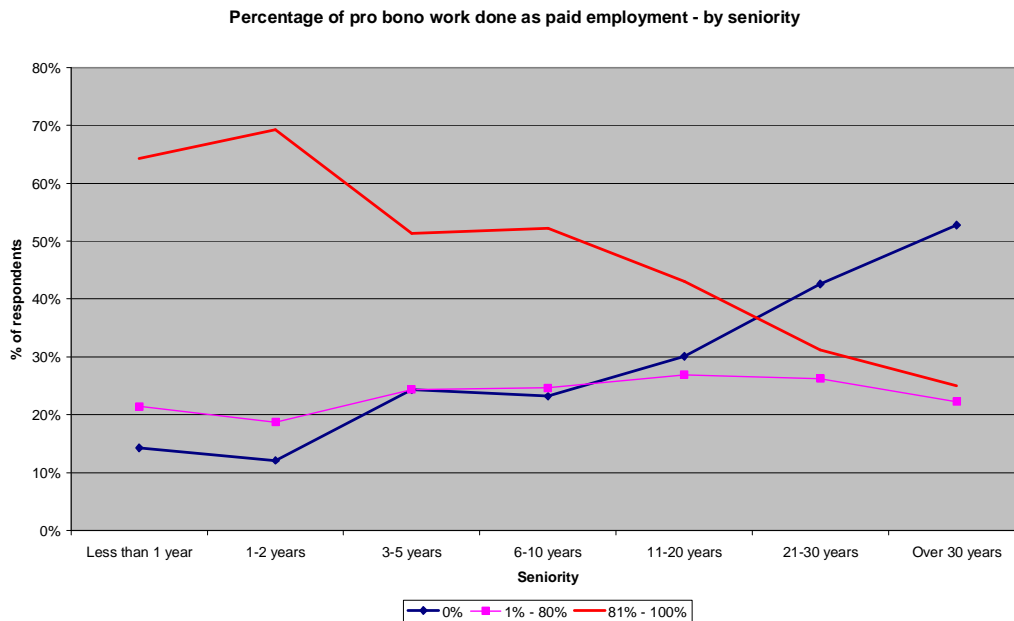
Of those who undertook pro bono work without payment there were over 60% of sole practitioner respondents and 80% of the government and academic lawyers. Of those who undertook most of their

<sup>23</sup> Table 4 of the ABS survey indicates that in June 2002, there were 2.4 volunteer lawyers for every solicitor/barrister employed by a CLC – a significant benefit for CLCs and their clients.

pro bono work in a paid capacity, there were over 55% of partner respondents and over 60% of employee solicitors and corporate lawyers.

Survey results indicated that, in general, as practitioners became more experienced, their pro bono work moved from being covered by paid employment to being ‘free’. This emerged as a clear trend.

**Figure 9**



64% of respondents who had been in practice for less than a year did over 80% of pro bono work as paid employment, with only 15% undertaking pro bono work for which they were not paid. However, for the very experienced practitioners (over 30 years) 53% undertook pro bono work which was not covered by paid work, and only 25% undertook pro bono work where over 80% was covered by paid work.

20-30% of respondents irrespective of seniority undertook pro bono work where 80% or less was covered by paid employment.

Interesting factors to emerge from cross tabulating include:

- respondents from sole practitioner/single partner firms were most likely to do unpaid pro bono work;
- for all other firms, paid pro bono work was undertaken by a higher percentage of respondents than unpaid work and this percentage increased as the firm size increased;
- as practitioners become more experienced, they are more likely to do unpaid pro bono work;
- by geographic location, the highest amount of unpaid pro bono work was done by suburban respondents;
- by geographic location, the highest amount of paid pro bono work was undertaken by the CBD firms;
- by geographic location, there was a fairly even spread in RRR areas between those who did unpaid pro bono (29%), those who did 1-80% of their work as paid pro bono (33%) and those who did over 80% of their pro bono work in a paid capacity (38%).

Distinct patterns of pro bono practice emerge from this data. The first is in the big city firms where most of the pro bono work is undertaken as paid work and where paid work reportedly increases as the size of the firm increases.

Secondly, the highest amount of unpaid work is done in the suburban firms with sole practitioner/single partner firms more likely than other types of firms to do unpaid pro bono work.<sup>24</sup> Thirdly, in the RRR

<sup>24</sup> The Centre intends to explore this further in the Law Firms Survey.

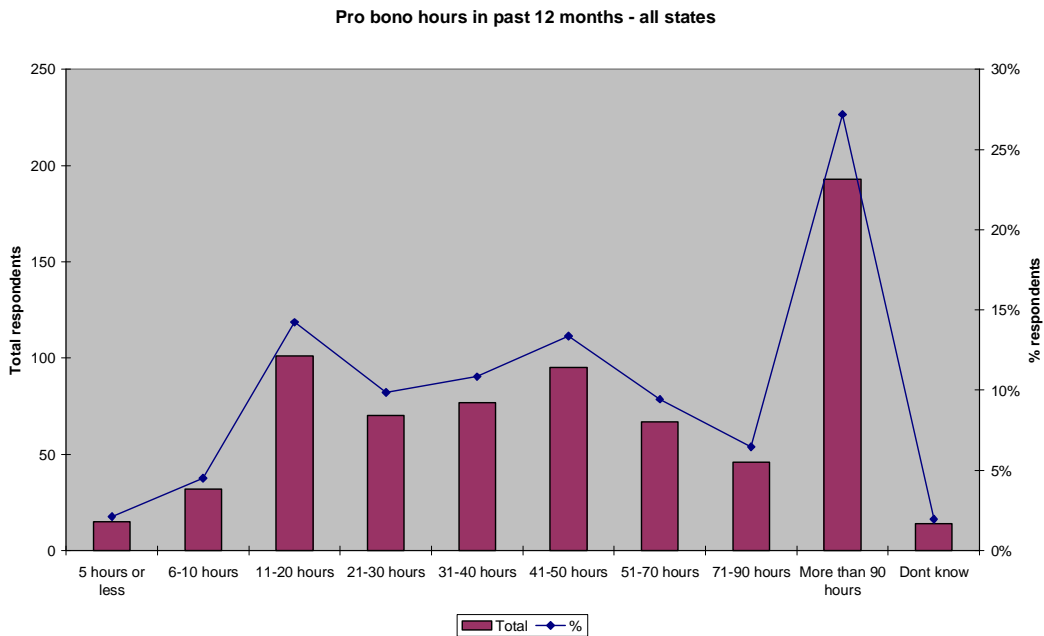
firms each of the categories of pro bono work (unpaid, 1-80% paid and over 80% paid) had close to a third of the RRR respondents.

Analysis of the pro bono hours done during the past 12 months by respondents, cross tabulated with paid and unpaid work, shows that of the 37,756 hours of pro bono work undertaken over the period (see **Figure 10**), 20,300 hours (54%) were paid work covered by the firm and 17,400 hours (46%) were volunteered on an unpaid basis.

## 5 How much pro bono work is done

In answer to the question *Can you estimate how many hours of pro bono legal work you have completed in the last 12 months?* (see **Appendix II, Section 7.1**), by far the largest response (28%) from any one group was from those had done more than 90 hours (see **Figure 10**, below). Overall, the hours estimated by the 710 respondents who had done pro bono work in the previous 12 months amounted to 37,756. Based on this total, each lawyer undertook an average of 53.2 hours a year. If the 20% of respondents who had not done pro bono in the past 12 months are included, this average figure drops to 42.5 hours a year – still higher than the Centre’s aspirational target of 35 hours a year.

**Figure 10**



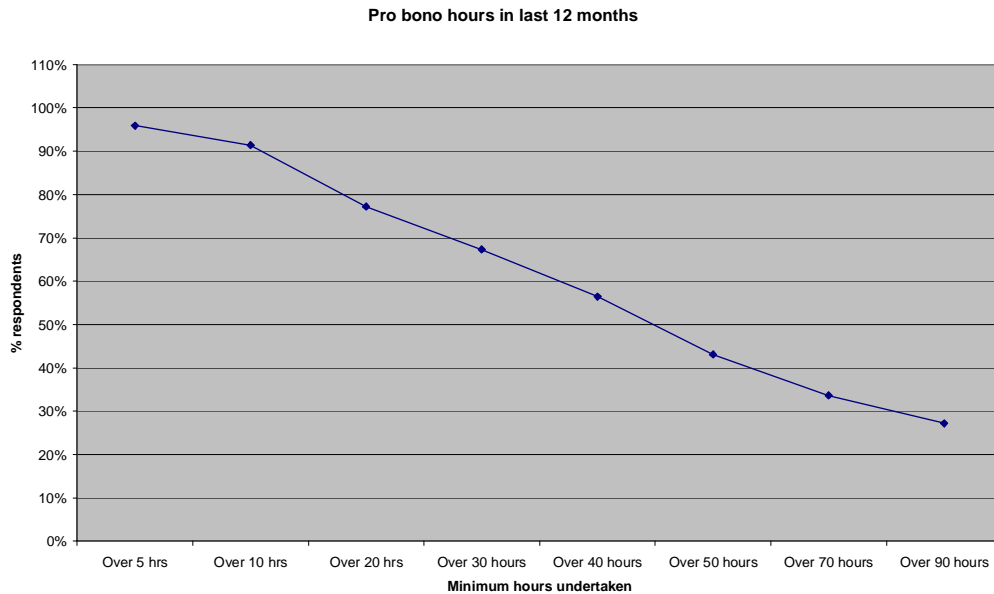
### A fanciful hypothetical

Respondents to this survey are likely to be individual solicitors who are interested in and undertaking a fair amount of pro bono work. But if it is assumed that they are roughly representative of the solicitor population as a whole, an extrapolation from the 37,756 hours of pro bono done by the total of 887 subjects (as 2.54% of the overall number of lawyers who are members of their respective Law Societies) leads to an estimate that Law Society members had a potential total of about 1,500,000 hours of pro bono work for the last year!! While it is a hypothetical figure, it does support the data in this survey that a significant amount of pro bono is being carried out – and that the amount is increasing, with 52% of those doing pro bono work reporting an increase in their hours over the past 12 months (see below).

### Minimum hours

**Figure 11** (see below), shows the percentage of respondents who have done a minimum amount of pro bono in the past 12 months. In particular, this figure shows 27% had done a minimum of 90 hours and over 60% had done a minimum of 35 hours, 67% had done over 30 hours and 56% had done over 40 hours. This last figure is significant in terms of the Centre’s aspirational target program, where there was much debate as to whether the 35 hours set as the target was too high – or not high enough.

**Figure 11**



### **Over 90 hours a year? Who are these people?**

Just on 27% of respondents recorded over 90 hours of pro bono work in the previous 12 months. Cross-referencing shows that there were:

- relatively more respondents in Victoria than in other states and territories;
- relatively more people in suburban offices than CBD or RRR offices;
- relatively more sole practitioners than other types of lawyers;
- significantly more of those in practice for over 30 years;
- relatively more of those aged over 50.

### **State and Territories**

For the previous 12 months the median numbers of hours of pro bono work were:

- Victoria: 50 hours
- NSW: 40 hours
- QLD: 31-40 hours
- Others: 41-50 hours

Overall, States and Territories reported an increase in hours spent on pro bono legal work in the last 12 months compared to the previous 12 months. National total figures indicate that 52% had increased their hours of pro bono work during the previous 12 month period; 29% reported no change in the hours spent on pro bono and 13% reported less pro bono work during the period.

On a state by state basis, 56% of respondents in New South Wales, 55% in Victoria, 42% in Queensland and 49% in Western Australia, South Australia, Northern Territory, Australian Capital Territory and Tasmania reported an increase in their hours of pro bono work.

Breaking this down into geographic location:

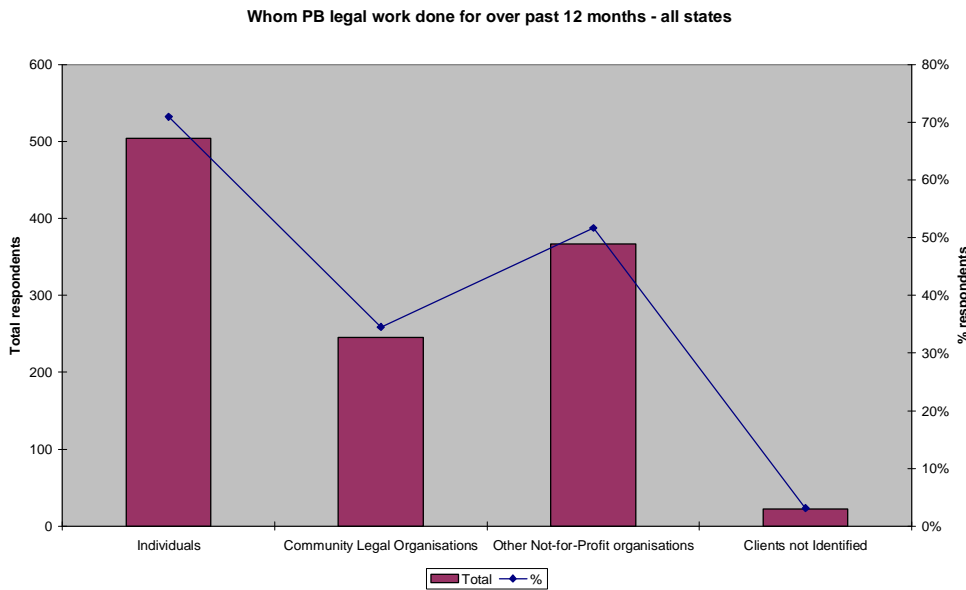
- More than half of the pro bono practitioners in the CBD increased their level of pro bono; about a quarter did the same amount;
- In the suburbs 45% did more pro bono than in the previous 12 months; 37% did the same;
- In regional, rural and remote (RRR) areas 41% did more pro bono; 34% did about the same.

In other words, more of those in the CBD increased their hours of pro bono work than those in either the suburbs or in the RRR areas.

## 6 The recipients of pro bono work

71% of respondents reported providing assistance to individual clients and 52% reported assistance to not-for-profit organisations other than community legal centres. Community legal centres were assisted by 35% of the respondents to the survey<sup>25</sup> and, if not-for-profit organisations and CLCs are combined, the CLCs and not-for profits together were assisted by 68% of the respondents over the 12 month period. A small number of clients (3%) were not identifiable in the survey. Note that some respondents may provide assistance to more than one category of respondent (see *Figure 12*).

**Figure 12**



## 7 Sources of pro bono work

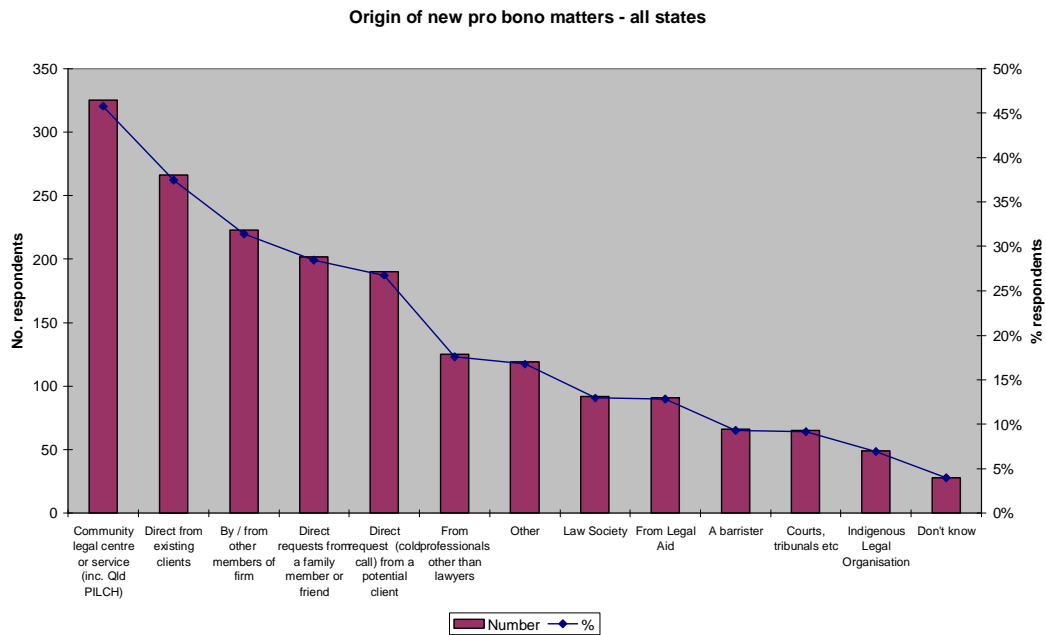
*Figure 13* (see below) makes it clear that the overall greatest percentage of clients (43%) came from referrals by CLC or other services such as PILCHs, then direct requests from existing clients, then referrals from other members of the firm, except in Queensland. The lowest level of referrals came from barristers (9%), from courts and tribunals (9%) and from Indigenous Legal Organisations (ILOs) (7%).

Victoria had the highest level of referrals from CLCs or other services (including PILCH). This perhaps ties in with the acknowledged efficiency of the one-stop-shop PILCH referral system in Victoria and the high level of co-operation between PILCH, the Law Institute of Victoria and the Victorian Bar Association. Interestingly, Victoria has by far the lowest level of direct requests from family and friends.

Queensland scored highly on direct requests from existing clients and much higher than other States and Territories on direct requests from family and friends. This may be due to an idiosyncrasy associated with legal practice in Queensland – or to its particular geography (more regional firms/practitioners) and size of firm or to other factors including cultural differences. For example, we know from the Queensland survey that the majority of pro bono work undertaken by sole practitioners in Queensland comes from direct requests from existing clients/family friends – but it is also the case that 36% of the respondents in Queensland (compared to 26% overall) were from sole practitioner/single partner firms where such direct requests are more likely. Compared to other States and Territories, Queensland has a lower rate of pro bono referrals from within the firm by other members of the firm.

<sup>25</sup> Because of the slightly different questions asked of Qld respondents and because the questions had multiple responses there may be some cross-over between those nominating not-for-profits and CLCs. Even so it is clear that a considerable amount of pro bono work is being done through community organisations.

**Figure 13**



Cold calls from potential clients are a considerably higher percentage as a source of clients in Queensland (34%) than in New South Wales and Victoria. They are also higher (36%) in the smaller States and Territories of Tasmania, Northern Territory, Western Australia and South Australia – none of which have PILCHs.

Referrals from Legal Aid are fairly consistent across states at 11- 14%. Referrals from barristers are also fairly consistent across States and Territories at 8 - 11%

Referrals from courts and tribunals are relatively low in Victoria (7%) and Queensland (6%) and highest in smaller States and Territories (16%) where they are higher than Legal Aid referrals (13%).

When referrals are analysed by type of lawyer, some interesting trends emerge:

- Sole practitioners get the majority of their pro bono work from direct requests from existing clients/family friends;
- Partners get 60% of their pro bono work from existing clients, followed by cold calls (39%);
- Employee solicitors mainly receive referrals from CLCs (51%) or from others within the firm (42%);
- Partners (compared to other types of lawyers), receive the highest percentage (18%) of barrister referrals;<sup>26</sup>
- Sole practitioners and partners receive 13% of referrals from courts and tribunals;
- There is no discernible pattern of referrals from Indigenous Legal Organisations.

When referrals are analysed by location of lawyer:

- In the CBD – the largest percentage of referrals comes from CLCs, then from others within the firm and then from existing clients;
- In capital city suburbs – most referrals are from existing clients, then CLCs just ahead of the approximately equal numbers from family and friends, and potential clients; and
- In RRR areas – the highest percentage of referrals comes via existing clients and family and friends, with cold calls from potential clients next.

<sup>26</sup> The Centre's National Survey of barristers identified 'lack of a solicitor to assist' as the second main barrier to their pro bono work after 'lack of time'.

When referrals are analysed by area of law:

- The highest demand is for lawyers who can offer services in the area of debt law (see **Figure 7**), followed by criminal law, litigation, family law, commercial, and employment law;
- The least demand seems to be in the areas of banking and finance, and construction. This may be attributable to the availability of services such as the Banking Ombudsman and/or state based Fair Trading Centres and other consumer help organisations or agencies in these areas of law.

It is perhaps of interest that assistance in the area of debt now features as the service most in demand by clients, particularly as there is still anecdotal evidence that family law is the area where the greatest assistance is needed.

Other interesting results are that assistance in the areas of criminal law, family law and domestic violence are highest on the list in Legal Aid referrals, indicating that these particular matters are outside the means or merit tests for Legal Aid assistance. Referrals from PILCH were primarily for assistance in the form of litigation, perhaps reflecting their close ties to the bigger legal firms that routinely undertake litigation. Not surprisingly, the main forms of assistance requested from family and friends were in the areas of criminal and family law. The few referrals from Indigenous Legal Organisations indicate that domestic violence matters were the priority, then criminal matters, then debt, discrimination and family law.

## **8 Firm practice**

Regardless of size and type of firm, 95% of all respondents who undertook pro bono did so with the knowledge of their firms.

In an attempt to discover possible connections between firm/employer practice and value placed on pro bono work, respondents were asked:

- If their firm/practice had a pro bono policy;
- Whether records of pro bono work were kept; and
- Whether pro bono work was taken into account in performance appraisal, promotion, salary reviews, and in meeting billable targets.

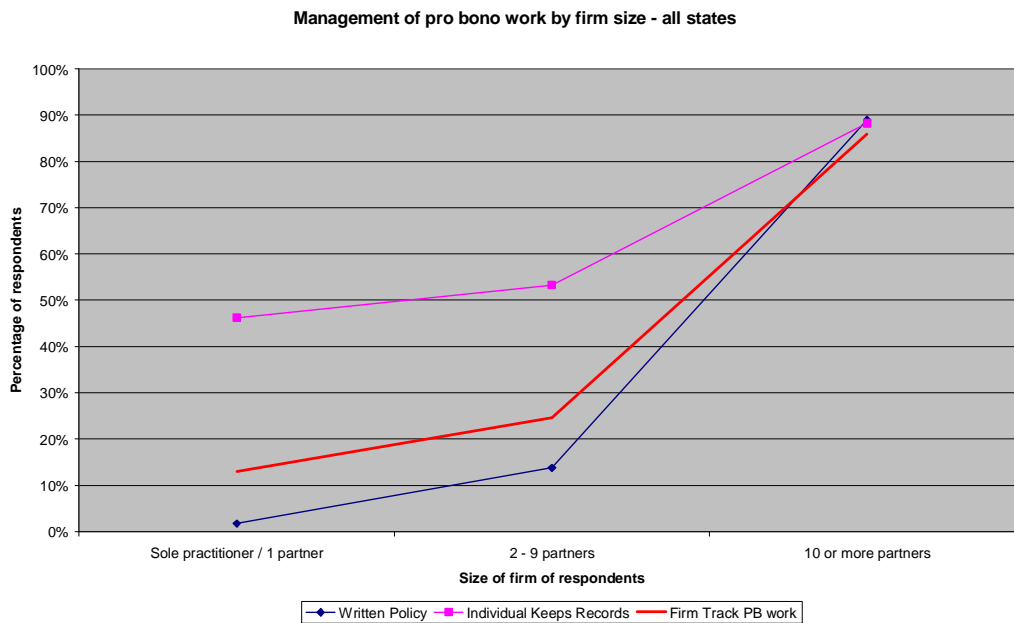
### **Pro bono policy**

- 46% of respondents reported having an in-firm pro bono policy; some respondents were unable to answer the question as they were unaware whether or not there was a policy;
- 89% of the respondents from large firms (with 10 or more partners) stated that their firm had a written policy; 87% of sole practitioners/single partner firms and 67% of those from firms with 2-9 partners did not have a pro bono policy;
- 62% of respondents in the CBD had pro bono policies; 84% of respondents in RRR areas and 70% of those in suburban firms did not have pro bono policies.

### **Pro bono record keeping**

- 68% of all respondents indicated that records of pro bono work were kept;
- trends were for the majority of individuals in large firms (10 or more partners) to keep their own records while just over half of the sole practitioners and single partner agencies did not keep records;
- 86% of those in large firms said that their firms tracked the amount of pro bono work they did while 63% of those from firms with 2-9 partners said their firm did not track their pro bono work.

**Figure 14**



**Figure 14** demonstrates that the management of the pro bono work of individuals becomes more formalised as the firm gets larger; this is shown for three different measures of management: (i) the existence of a written pro bono policy, (ii) individual record keeping and (iii) firms’ record keeping. This is in the context that 95% (± 5%) of all respondents irrespective of size of firm, geographic location, more than one office, undertook pro bono work with the knowledge of their firms.

It also shows that there is a significant increase in structured management as the firm gets larger. Over 85% of respondents from firms with over ten partners indicated that their firm had a written pro bono policy and that it tracked their pro bono work. For firms of 9 or fewer partners, 14% had written policies and 25% were reported as tracking the pro bono work of employees.

**Pro bono taken into account**

Certain pro bono respondents were excluded from answering these questions because they were sole practitioners or their pro bono work was not done with their firm’s knowledge. Of the 598 that did respond, almost one fifth (16%-19%) indicated that this question was not applicable to them (presumably because of the particular structure of their work environment). Another 9%-29%, depending on the parameters, indicated that they did not know the answer (see **Table 4**).

From the 331 people who were able to give a definitive Yes or No answer, it was clear that while almost half thought that their pro bono work was taken into account for their performance appraisal, only 16% thought that it was taken into at the level of promotion and advancement and in salary reviews.

**Table 5**

<b>PB work taken into account</b>	<b>%yes</b>	<b>%no</b>	<b>Don't know</b>	<b>NA</b>	<b>TOTAL</b>
Performance Appraisal	42%	26%	16%	16%	100%
Billable Hours Target	38%	35%	9%	18%	100%
Financial Targets	28%	40%	15%	17%	100%
Promotion & Advancement	21%	32%	29%	19%	100%
Salary Review	16%	39%	26%	19%	100%



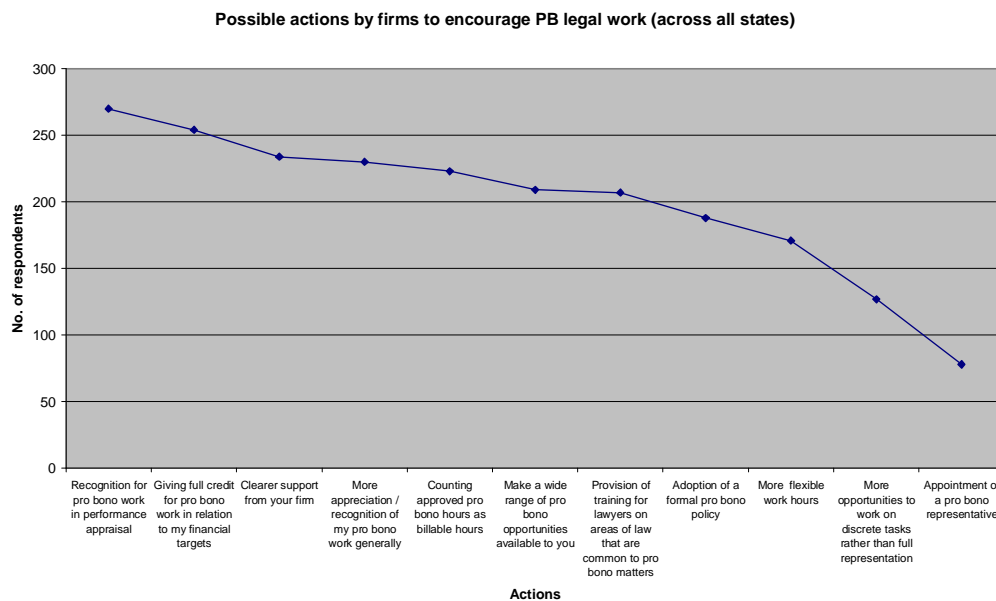
At first instance this might indicate that pro bono is valued by firms more in the rhetoric than in the pocket. But it might also tie in with answers to the survey question which asked why lawyers should do pro bono. For the vast majority (90%) the first answer was to help people who are socially disadvantaged or marginalised. This was followed by those who said that it was related to a sense of professional responsibility (85%). These responses held true across all States and Territories, and whether or not the individual respondent had undertaken pro bono work. The possible answer relating to financial incentives, that is, ‘It may lead to paid work’ (see **Appendix I, Section 11.2.4**), was the least popular response with only 1% of respondents nominating this as a reason for doing pro bono work.

The responses seem to indicate that for the vast majority of respondents, financial concerns are not paramount in their motivation to do pro bono work. Indeed, the data indicate that recognition for pro bono work in performance appraisal is more important than either financial targets or billable hours credit (see **Figure 15**).

### Encouraging more pro bono work

The non-financial dimension to pro bono work seems to be supported by respondents who were also asked what action their firms might take to encourage more pro bono work. The most popular action (from employees) was that pro bono be recognised in their performance appraisal.

**Figure 15**



Performance appraisal is closely followed by credit for pro bono in financial targets, then clearer support from the firm and greater recognition of pro bono work within the firm. Counting pro bono in billable hours came in fifth and, having a formally appointed pro bono representative emerged as the least popular discrete category. This may well be because many of the respondents came from small firms where they thought it unnecessary to have a formal pro bono co-ordinator.

The idea that more flexible work hours might increase pro bono activity by allowing better management of time is put into doubt by this being at the lower end of the list for lawyers (22%) who were asked what their firms might do to support them. Even fewer respondents (16%) nominated more opportunities to work on discrete tasks as an important form of encouragement.

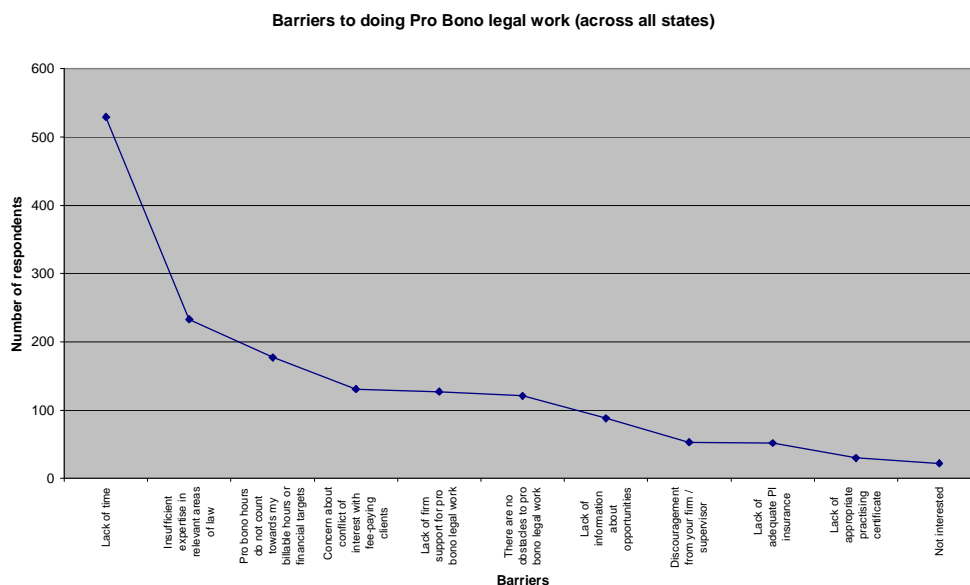
## 9 Barriers to pro bono legal work

When asked *What gets in the way of you doing pro bono legal work?* (**Appendix I, Section 9.1**) the overwhelming response across all states and territories and all categories was ‘lack of time’.<sup>27</sup> Lawyers, it seems are overworked, even if not underpaid!

<sup>27</sup> Results for the Centre’s Barrister survey indicate that this is also the main barrier to their pro bono work.

This is an interesting area for speculation. Would a structured pro bono program allow more time for pro bono? Or would it need to be a program that gave full credit for pro bono work for financial targets or included pro bono billable hours, for the time pressure valve to be released?

**Figure 16**



There is a significant gap between the barrier of time and the other possible barriers that were offered in the survey (see **Appendix I, Section 9.2**). Insufficient expertise in relevant areas of law was nominated by 30% of the respondents to this question and 23% nominated the fact that pro bono hours did not count as billable hours or financial targets. Conflict of interest, which has traditionally been seen as a major problem for many firms, was given by less than 17% of the respondents. Lack of insurance and lack of practising certificate were mentioned by 7% and 4% respectively.

## **10 Attitudes and values to pro bono and to Legal Aid**

### **Pro bono legal work**

Respondents were asked if they thought that lawyers should do pro bono work (see **Appendix I, Q11.1**). In line with every other survey and questionnaire that the Centre is aware of, a huge majority (94%) – even of those who have not done pro bono – said ‘Yes’. Respondents were then asked to nominate their top 2 factors as to why they thought lawyers should do pro bono work. Again the response was predictable in that across all States and Territories, 90% nominated helping the disadvantaged and 85% nominated a sense of professional responsibility.

While the variation was slight, there was a trend for lawyers in their first few years to nominate as their answer ‘To broaden their legal skills’ and for lawyers in practice for more than 11 years to select the answer ‘Provides a positive public profile for the firm’.

### **Aspirational targets**

All respondents were asked whether or not their Law Society should issue a policy statement about lawyers’ commitment to pro bono.

- 71% thought that they should – 29% disagreed.

A further question was asked of those who thought that their Law Society should issue a positive statement about a voluntary pro bono goal to encourage all lawyers to aspire to pro bono work?

- 87% thought they should: 13% disagreed.

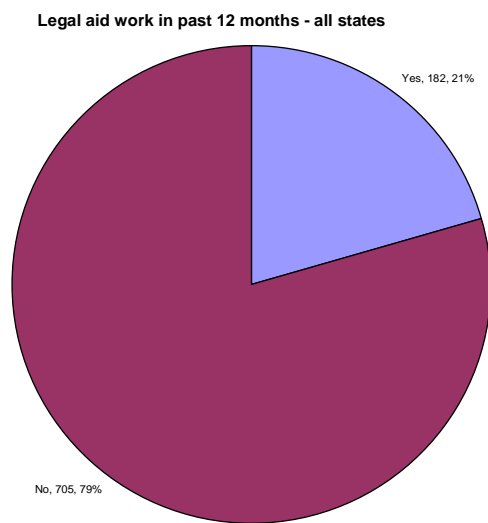
As stated earlier, in 2006, the Centre introduced an aspirational target of 35 hours per lawyer per year. There was at the time some discussion about the appropriateness of setting a target (which some thought unnecessary) and about the appropriate target hours.

The survey data indicated that 66% of the respondents had done more than 30 hours pro bono work in the previous 12 months, already close to the Centre's aspirational target. However, when the figures for all 710 respondents who had done pro bono in the previous 12 months are analysed, about one-third of the respondents are doing 70 hours or more, about one-third are doing between 30 and 70 hours and about one-third are doing fewer than 30 hours.

## Legal Aid

All respondents were asked whether or not they had done any Legal Aid work in the last 12 months (see **Appendix I**, Section 10.1). Across all states, 21% had done Legal Aid work,<sup>28</sup> 79% had not done Legal Aid work.

*Figure 17*



Of the 21% (or 182 respondents) who had done some Legal Aid work in the previous 12 months, just over 20% spent more than half of their time on Legal Aid work and 30% (the largest group) spent up to a twentieth of their time on Legal Aid work. The other 50% of those who had done Legal Aid work spent somewhere between one-twentieth to one-half of their time on leg Legal Aid work.

Section 10.2 of the survey asked, *Is there any particular reason why you did not do any Legal Aid work?* This brought a barrage of responses. Many related to lack of time and opportunity and many to lack of experience in the 'legal aid' areas of law. Others were 'not interested' and for many, Legal Aid was 'not part of firm practice'.

Answers reveal some confusion about Legal Aid work. For example, some respondents thought that volunteering at a CLC was Legal Aid work. Others clearly thought that the fees paid for Legal Aid work are so substantially reduced to amount to pro bono work - in other words, that the difference between Legal Aid and pro bono work is 'a difference without distinction'. Some comments about Legal Aid include:

*Still have a fetish for eating at least once a day. (NSW respondent)*  
*Fee return is unjustifiable. (WA respondent)*

<sup>28</sup> In the research report 'Study of the Participation of Private Legal Practitioners in the Provision of Legal Aid Services in Australia', TNS Social Research, December 2006, it was found that 76% of legal aid lawyers reported providing pro bono services other than for legally aided cases (at p 56).

*Legal Aid is pro bono work masquerading as paid work. I would rather choose my own pro bono recipients.” (QLD respondent)*

*Inadequate payment/ but time demanding. (ACT respondent)*

A significant proportion of responses noted that the administrative burden of doing Legal Aid work is so onerous (ie, form-filling, restrictive caps, reporting back requirements) that they would prefer to do ‘access to justice’ work, without having to fulfill these obligations. Some examples include:

*Too much red tape. (SA respondent)*

*Absurd payment system. Commercially impossible to deal with Legal Aid Office. Easier to do work for free....(NSW respondent)*

*I’d rather do it for nothing than go through all those bloody hoops to be paid a pittance. (Vic respondent)*

*Rate is too low. Response time too long. Too much administrative paper work. (SA respondent)*

Many assume (possibly rightly in practice) that Legal Aid only involves family and crime, when in fact there may be limited opportunities to do civil legal aid work. This may mean that Legal Aid could consider publicising opportunities for Legal Aid work (this is supported by the 2006 Commonwealth Attorney-General’s Department research report on Legal Aid).<sup>29</sup>

*I have no criminal experience and Legal Aid rarely extends beyond criminal law. (QLD respondent)*

*Firm does not do criminal or family law matters. (NSW respondent)*

*I have never been approached to do any. (Vic respondent)*

Few of the responses indicated an awareness that Legal Aid is a way of participating in access to justice for disadvantaged people. It is viewed by many as another source of clients and a source that often seems to be ungrateful as well as unprofitable and time-consuming. One respondent stated:

*Legal Aid clients expect everything as being their right. Legal Aid clients do not show gratitude as they believe that the lawyers have been paid their normal fee by the legal aid entity. (NSW respondent)*

---

<sup>29</sup> See fn 29. Also available at [http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications\\_LegalaidresearchTNSreport-December2006](http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_LegalaidresearchTNSreport-December2006)

## Part 2: Issues

There were many responses<sup>30</sup> to the last survey question: *Is there anything else that you think it would be useful for us to know about your pro bono work?* The comments provide a valuable record of the range of views and values of practitioners in relation to the many issues surrounding pro bono legal work.

For example, a suggestion from a NSW respondent was that the Centre should list 'pro bono' opportunities on its web page, including ways for lawyers with limited experience to be involved - perhaps with some form of mentoring program. Another, from Victoria, suggested that 'practitioners considering pro bono work should be given some training in the areas in which they will provide pro bono services'.

Comments have been grouped into:

1. General policy concerns
2. Attitudes to Legal Aid
3. Issues relating to firm practice
4. The role of government
5. Particular state issues

Where relevant, a few comments have been split across issues and comments have been de-identified. The State or Territory of the respondent is included in brackets at the end of each comment.

### 1 **General policy concerns**

#### **Definition of Pro Bono (Legal) Work**

*The survey adopted a definition of 'pro bono legal work' (see **Appendix I**) based on the 1992 Law Council of Australia definition. It includes free or substantially reduced-fee, legal and legal education work done by lawyers. It does not include the considerable community service work done by lawyers. It does not include legal aid or 'no win-no fee' work which was dealt with separately in the survey.*

#### **Comments**

- (i) Lawyers typically define pro bono too narrowly as you are doing. It merits a wider definition that covers lawyers and law firm staff using their skills as well as knowledge of the law to benefit the communities of which we are part - not just the low-income and marginalised. I strongly suggest you measure ALL the community outreach programmes, ALL members of law firms (not just lawyers) who are involved in pro bono. You may wish to subdivide into categories including assistance to marginalised etc. (NSW)
- (ii) The extent of pro bono work is unrepresented. There are probably issues about definitions too. That is, are lawyers in paid employment at community legal centres counted as performing pro bono work in their employment? ... similarly work by Legal Aid Lawyers? If the lawyers are paid, then the work isn't pro bono, is it? (NSW) [See **Part I, Pro bono and type of practice**]

---

<sup>30</sup> We have sought to include all comments that expressed particular points of view on the main issues raised by respondents. Several respondents wrote many pages on issues which particularly annoyed them or where they felt a strong commitment. Some comments have been edited for length while retaining, as far as possible, the essence of the comment.

- (iii) Your definition of pro bono work is inadequate. It does not include work on the professional development of other lawyers to inculcate in them the idea that we lawyers have a professional responsibility to assist people trying to find their way through the legal system. (SA)
- (iv) It is too ideologue-driven as to what comprises pro bono. (NSW)
- (v) We also do 'pro-bono' work for existing clients but as a 'value add' and it certainly isn't the warm and fuzzy feeling from pro-bono for disadvantaged people; it is essentially an additional thing that we provide to corporate clients and that they then utilise/abuse. For example getting free advice on matters they haven't briefed us on. (SA)
- (vi) To a large extent it is unavoidable to provide some initial pro-bono service through information/advice to a potential new client in order to win them over as a client or to help someone in need of assistance. Often however, potential clients accept that information without taking the matter further, do not instruct you (usually because they have no funds or potential funding) and often pay nothing. This contribution to the general community from most lawyers, I expect, should be acknowledged by some Government funding or subsidy (akin to say Medicare schedules) for this work that lawyers provide on an every day basis. (SA)
- (vii) I do a lot of committee style work - law reform - with the law society and also education (such as mock trials for high schools) I have included this as pro-bono work but I am not really sure that is what you are getting at. (SA)
- (viii) Some pro bono work is formal in the sense that a formal appointment is made by the corporation and other pro bono work is on a more informal basis. Many approaches are also made to accept a position on boards and similar. The flow on paying client work may follow after a position on a voluntary organisation has been completed. (TAS)
- (ix) The definition of what is pro bono work for the purposes of the Victorian State Government Legal Services contracts is too narrow - many worthy non-profit organisations deserve and receive pro bono support and, if "quotas" are going to be imposed, the criteria for recognition under the contract should recognise a broader range of organisations that are proper recipients of assistance from law firms. (VIC)
- (x) The questions in this survey were primarily geared towards big firms undertaking case work. Most of my pro bono work is participation in law reform committees and governance of a CLC - this type of pro bono work may not be accurately reflected in your results. (SA)
- (xi) Much of the client contact involves social educational /economic issues - not legal. (VIC)
- (xii) I think it is important that the many, many hours that lawyers contribute to community organisations is acknowledged....It is fine to say that it is not pro bono work, but I know of nothing that can be more accurately described than for the good of the community. You often find lawyers on very many organisations and they are there because they are lawyers. Take them all away and these organisations would need to be seeking legal services and would then be needing to pay for them ... There are many lawyers who also continue to contribute in varied ways quite anonymously. We must also remember that lawyers are also in business and do in fact need to make a profit to continue to be in business. Whilst the concept of a profession is important and should be encouraged, commercial reality must play a part. The endless contribution that lawyers make to communities via boards, committees, fundraisers, etc is important and should not be ignored when it comes to bagging lawyers about not doing pro bono and the lack of community spirit - it is just unfair and inaccurate. (QLD)

### **Mandatory or voluntary pro bono?**

*Many respondents felt that pro bono should be entirely voluntary – and that there is growing tendency to over-regulate the profession. There were also some who expressed a strong commitment to the idea of pro bono being compulsory and others who thought that pro bono work should form part of a Continuing Legal Education/Professional Development point system.*

## Comments

- (i) Pro bono is a matter for the choice of each lawyer. It should not be compulsory. It should also be made clear to users of pro bono services that the lawyer is doing them a favour as a matter of professional courtesy and that the lawyer's generosity should not be taken for granted or abused. It certainly should not be used in cases where the amount in dispute would mean that the lawyer would not act for a fee paying client. Nor should pro bono be used where a person can pay legal fees but does not want to do so. It should be reserved for those cases where it is truly in the public good that the person receives legal assistance on a free or partly free basis. (NSW)
- (ii) It is desirable that all lawyers admitted [into] practice provide pro bono services. (VIC)
- (iii) I do it because I choose to. I do not think it should be imposed. No other profession is made to do pro bono work and we are over regulated as it is. (QLD)
- (iv) Pro bono work is something that should be up to the individual. You should not be expected to do it just because you have a skill. There aren't any pro bono plumbers or electricians etc. as far as I know. I get sick of everyone trying to place responsibility on lawyers, expecting them to do things for nothing just because they are lawyers. (QLD)
- (v) I do not believe it is in clients' best interests that lawyers be coerced into pro bono work. Rather, lawyers should be educated about the benefits and then offer their time willingly. (SA)
- (vi) Lawyers should only do pro bono if they want to. (VIC)
- (vii) I think pro bono work is a matter for individual conscience and I feel very strongly that manuals etc are a waste of time and probably our money. I do NOT believe that my firm should have to pay me to do pro bono work - it is my own personal response to community issues and I enjoy doing it. I most emphatically do NOT believe in making firms or companies pay for it unless it is their own decision to do so. The whole thing is being completely over-managed and over-regulated. (QLD)
- (viii) Requirement to do pro bono should be mandatory eg. 50 hours per year for all private sector lawyers (excluding corporate/government lawyers). (NSW)
- (ix) I would be happy for there to be a mandatory pro bono target for lawyers as I believe it is part of our professional responsibility. (NSW)
- (x) Pro bono hours should be compulsory for the legal profession just like continuing professional development hours are compulsory. (VIC)
- (xi) Make pro bono work compulsory or conditional upon receiving a practising certificate. (SA)
- (xi) It should be a requirement on all lawyers to demonstrate they have completed a minimum amount of pro bono (genuinely) legal work, prior to their annual practising certificate being renewed. I first recommended this 25 years ago and was laughed out of the room by the man who was subsequently to become the federal Attorney General. (VIC)
- (xiii) I think that like CLE points, lawyers should have to do a certain number of hours of pro bono work in order to keep their practising certificate. (NSW)
- (xiv) I think regular pro bono work should be compulsory for all lawyers, similar to the ongoing CPD requirements. (NSW)
- (xv) It should be mandatory that lawyers do pro bono work - a minimum amount per annum or tri-annually - in their area of preferred expertise and should count for some CLE. (NSW)
- (xvi) I think there should be (i) required continuing education points for lawyers each year and (ii) pro bono work should be allowed to be substituted for education points. (SA)
- (xvii) Pro Bono should be considered for CPD units. (VIC)

## Rationale and motivation

*It is worth noting that many respondents wished to comment on why lawyers do pro bono and many also offered quite personal accounts. But there was also trend for some to be critical of pro bono being associated with targets, billable hours, the reputation of the firm and as a way of promoting the image of the legal profession.*

### Comments

- (i) It's all about access to justice. You either have some conscience about your status in the world or you are totally self-centred and couldn't care less about those less fortunate. It's also about enjoying your area of practice, and being willing to go a little further than just doing 'billable hours'. (QLD)
- (ii) My commitment to pro bono work has everything to do with a desire to use the power and opportunities I have been given in my life to further the interests of others less advantaged - and a desire to influence social change. It has nothing to do with public recognition, enhanced professional or personal reputation to improve the image of the legal profession as a whole. (QLD)
- (iii) I think that the public perception is that the legal profession is on the whole primarily concerned with profit. The media do little to allay this perception - this is well documented. I like doing pro bono work out of a sense of professional responsibility and a desire to assist less fortunate individuals in an appropriate case. It also lifts morale in the firm. I also select which is an appropriate case - the need for pro bono work is not determined solely by economic considerations. Just because someone cannot afford legal services does not mean that we should act pro bono. A sense of 'justice' and 'possible injustice' is also essential. (QLD)
- (iv) I find that the emphasis on billable hours as a measure of performance in most firms these days, together with the family responsibilities of female solicitors, makes it hard to fit in pro bono work. I think that the answer is not easy. (NSW)
- (v) I believe I work for the best firm as far as recognition for pro bono work is concerned. I have thrived after being given the opportunity to work on pro bono matters. I would do pro bono work full time if the opportunity arose within my firm. (NSW)
- (vi) To foster a sense of community responsibility for the right reasons is appropriate. The hope of getting fee paying work by doing pro bono, is not, in my view, a 'right' reason. Let a gift be a gift. (NSW)
- (vii) I don't see it as a marketing tool but as part of a political commitment to social justice, but I am fairly cynical about the way some of the big firms approach it. The approach you have to it really depends on whether you see your professional status as carrying some social obligation. That perception is dying out, in my view. (NSW)
- (viii) Pro bono work must come from a genuine desire to help people and not be driven by targets. Sometimes work done for a client may evolve over time to become all or part pro bono. That is the benefit of being a sole practitioner I can make choices free from encumbrances. (NSW)
- (ix) Lawyers will learn the value of pro bono mainly when they are encouraged and it fits within their goals for gaining expertise. This prompted me to take on a new career after stepping out of practice. (NSW)
- (x) If you have to advertise pro bono work then it is not worth doing ... you should not undertake such work to gain kudos from your peers but because it is the right thing to do. (NSW). (xi) I have done more pro bono in the past particularly refugee law. It was inspiring to see how many young lawyers were involved. Query balancing the commercial hard face of the law with their wanting to help society. (NSW)
- (xii) Pro bono work should be undertaken to help. It should not be undertaken for the purpose of commercial gain (by reputation or whatever) - as far as I am concerned, anyone who undertakes



- pro bono work and then shouts about it or expects recognition for it is doing it for the wrong reason and should be discouraged. (SA)
- (xiii) Unfortunately I strongly believe that large firms pay lip service to the ideals of pro bono work and corporate citizenship, so that they can appear to be the 'right sort of firm' to clients and to the public generally. This extends to making proud public announcements about the large number of pro bono hours their lawyers perform each year (or are required to perform). There even seems to be an informal competition to be the firm that performs the most pro bono hours. (VIC)
- (xiv) The primary motivation arises from my understanding of the biblical imperative to work for justice and assist the powerless members of society. ... I also had the benefit of free public school and tertiary education so that contribution from the community must be recognised and repaid as a matter of equity and appreciation. ... A lot of my pro bono work is advice, the explanation of options, and ongoing assistance for those who may have a claim arising out of past sexual abuse, or who have been involved in an accident, or who suffer from an intellectual disability. On average the pro bono work would occupy up to 10 hours per week. (NSW)
- (xv) I think it's an invaluable aspect of both my professional development and my professional responsibility. (NSW)
- (xvi) I do pro bono work mainly for a charity where a friend of mine sits on the board. I believe in the service being offered and I respect her time commitment as a board member so being asked to help as a lawyer is the least I can do. (NSW)
- (xvii) A valuable and wonderful thing, to give something back to those less fortunate, which is not pushed as important by enough firms. (NSW)
- (xviii) Its bloody fulfilling, delivers a lot to average punters and is good for networking with other professionals. (NT)
- (xix) I am proud of the nature and extent of pro bono work I undertake as a representative of the profession and myself. (SA)
- (xx) I am semi-retired, and like to help people as well as earning a little money. (NSW)
- (xxi) The interesting thing I find about pro bono is that it really does allow you to put back into the community. Inevitably the people being referred are disadvantaged or otherwise marginalised and would not otherwise have access to legal assistance. In my view, it is a necessary part of being a solicitor. Without it, we are in some ways less than human. (NSW)
- (xxii) Pro bono is an invaluable service and I am very committed to it. (NSW)
- (xxiii) It has a definite 'feel good' factor and does from time to time bring in indirectly some fee paying clients. (NSW)
- (xxiv) I was a volunteer solicitor at a Legal Centre for 10 years every second Tuesday night until 5 years ago when I moved to my current firm and got too busy. I enjoyed doing it in terms of the other solicitors I met, experience gained, & the idea of helping others in a real & practical way. (NSW)
- (xxv) Pro bono work is usually the most challenging work I undertake. It stretches me in terms of my professional skills, my interpersonal skills, and my personal ethics. It can be extremely frustrating where a client does not have the cost of legal assistance as a factor in their issue, roughly the equivalent of a paying client doing something 'on principle'. It is immensely rewarding on a personal and professional level, and leaves me with a sense of contribution to society that the usual work for commercial clients does not yield. (VIC)
- (xxvi) It's the most enjoyable, rewarding and interesting work I do. The clients also show so much more respect and gratitude than paying clients (they are somehow often more personable) which increases my morale and, in part, encourages me to remain in the profession. (VIC)
- (xxvii) It is in fact quite satisfying on a personal level, it doesn't hurt the firm and is best seen as something that offsets the marginalisation of lawyers as a profession as being only there for the money. (VIC)

(xxviii) It is immensely rewarding and brightens up other dull aspects of a day. (VIC)

*And there are comments from individuals who don't do pro bono:*

- (i) I haven't done any pro bono work. I was unaware of the practice kit (The Australian Pro Bono Manual) but if there was readily available information I would consider doing some. I don't think lawyers should be relied upon to do it. I think the state should provide socially and financially disadvantaged people with access to legal advice and representation. The current system is inadequate and because it is I would consider donating my time and assistance if it would help. (NSW)
- (ii) I have done considerable amount of work in community organisations and non profits, this is my contribution to my community and society in general. I do not do pro bono legal work because pro bono work is a con on the public and profession, it puts a lot of burden on lawyers (most of whom are not making fabulous incomes from their normal work) and avoids putting pressure on state and federal governments to properly fund legal aid. (NSW)
- (iii) I think the real problem for employed solicitors is the fact that their time is not their own and we operate in an industry where the average work day leaves little extra time. (NSW)
- (iv) Given that I work for a government office there is no real way I can provide assistance without conflict. (NSW)
- (v) When I strike a pro bono plumber, I will start doing work for nothing. Firms at the big end of town charging fees like the GDP of a third world country, might feel abashed at the public knowing what their partners earn. Pro bono seems like a good PR exercise for them. Given the clout that large firms have always had with the Law Society, it is no wonder this barrow of pro bono is being pushed. (NSW)

### **Visibility and recognition**

*As with their motives for doing pro bono work, lawyers have a range of attitudes towards how and when pro bono work should be recognised – or not!*

#### **Comments**

- (i) Large firms are usually recognised for pro bono work, however many small firm practitioners give a lot of time to their local communities. More public awareness should be made of how lawyers give back to their community more than most other professions. (NSW)
- (ii) I believe that there should be more focus on pro bono work undertaken (probably by most solicitors) in presenting profiles of the value of lawyers in the community. (NSW)
- (iii) We don't generally tell anyone about the pro bono work we do. It is in fact an unavoidable consequence of private legal practice. We do not consider that the Government would bother to show us in a positive light regardless of the work we do. Self promotion by lawyers is viewed critically - so we say nothing about it. (NSW)
- (iv) A lot of my pro bono work comes in the form of heavily discounted fees to assist those who could not otherwise afford legal services. I do not publicise my generosity and do not expect any recipient to inform others. (NSW)
- (v) I do pro bono work because I want to, and it makes me feel good, not for any recognition. I am lucky my firm feels the same way, I work with very kind people. Pro bono work should not be seen as something to enhance your profile or that of your firm. Good deeds are better kept private. (QLD)
- (vi) Personally rewarding but would like more formal recognition by firm. (NSW)
- (vii) Unfortunately, for many law firms, business in general, the 'bottom line' is all important. Perhaps the Law Soc can provide some form of incentive, by way of public recognition for example, that will raise the public profile of lawyers/firms that do more pro bono work - while this may not be a

driver for the lawyer willing to give up his/her time, it might help that person's firm to become more involved. (NSW)

- (viii) In the last two years my firm has done pro bono work worth more than \$150,000, if that work was paid. I would like to see the Queensland Law Society do more to advise the public of just how much lawyers do for no pay. (QLD)
- (ix) We are a small firm and there is a sense of community to which we contribute by doing pro bono work where appropriate. I don't think the QLS telling people thru the media that we do pro bono really assists. People think it's lawyers pushing their own barrow. People who benefit from it appreciate it & tell others. By spruiking about it we create an expectation in the public that they should get not have to pay where that expectation might not be appropriate. This devalues our services & adds unnecessary pressure to perform more pro bono work. (QLD)
- (x) A willingness to do pro bono work is generally proportional to recognition. There is in my view no culture of recognition or encouragement in firms or the Queensland Law Society. (QLD)
- (xi) The fact solicitors do this amount of pro bono work is generally lost in the public domain – there seems to be a general belief that this type of work is expected to be done for those that need it but there is little or no acknowledgment. If it is not done how would these people/organisations survive? (QLD)
- (xii) Lots of lawyers do really good stuff in this area, and it is generally not recognised. The Law Society could do a bit toward lifting the profile of what lawyers do in their own time in this area, undoubtedly this survey will be a good start. (QLD)

### **Pro bono and genuine need**

*Many respondents wanted to make a point about the abuse of pro bono services by those who may be able to afford some fee – and the likelihood in many cases that there will not be much of a thankyou. Some respondents felt that many clients do not understand what pro bono means. For others access to justice is the overriding principle.*

### **Comments**

- (i) Quite a few people who enquire do not deserve pro bono work. I have my own criteria as to who qualifies and do not believe that lawyers should be forced to work for nothing - or close to it. Nor should they be told who qualifies. (NSW)
- (ii) Promotion of pro bono is being misunderstood by the community and is regularly used by clients as an excuse for seeking free advice and services. (NSW)
- (iii) I do not hesitate to do pro bono for those in genuine need but I am tired of every, or nearly every, client asking for pro bono regardless of their circumstances. It is a term that once the client hears they run with. No one asks their mechanic, builder, plumber or doctor to provide their services 'pro bono'! (NSW)
- (iv) Pro bono work is not something that I look for but it is something that reasonably regularly there is a case which through circumstances simply becomes pro bono. In cases where clients are unable to afford legal services and are disadvantaged in some way through disability, illness or confidence issues then I am of the view that we have a responsibility not only to those individuals but to the legal system to ensure that those people have appropriate access to justice. (QLD)
- (v) Often the clients asking for pro-bono could afford to pay something, they have unrealistic goals and expectations, or unclear goals, cannot or won't clearly set out the relevant facts and are otherwise not very good clients. Persons with a genuinely good claim but lacking money I think have little trouble getting some representation. (NSW)
- (vi) I do my bit by doing very substantially discounted work for those who cannot pay, recently a client not paying his mortgage or strata levies for lack of money, or current cash flow, and

charging modestly generally. The main problem with access to law is that lawyers are generally too expensive and people are reluctant to consult them on things which they should get advice on. (NSW)

- (vii) At the community centre where I do some pro bono legal work, I believe that many persons who seek legal advice at no charge are not deserving nor appreciative of it. (NSW)
- (viii) Frequently pro bono work has no outward reward, it can be just as difficult as paid work, and needy people are less likely to value what is done for them, particularly if their education has been less than finishing high school. In fact, that's probably why they got into difficulties in the first place. A lot of legal work is in itself an education for the client, and this is just as relevant for the pro bono client, so I think pro bono work, even for individuals, should be viewed as community legal education (QLD)
- (ix) The clients are usually very demanding - they usually do not understand what the process is and what can be achieved - because they are not paying, they often abuse the privilege and as I say are very demanding on your time. (VIC)
- (x) Pro bono is hard work, because so often the reality is that people in marginalised situations are there because of their inability to properly manage their own interests (due to mental, cultural, health or other factors beyond their control). Often little can be done which will actually improve their life. Only a small percentage will thank you. Much of the advice given will be ignored. Therefore anyone seeking to 'get' something from pro bono work, other than the intrinsic value of participating in the community in a more complete way, is likely to be disappointed (QLD)
- (xi) My firm used to provide a duty solicitor at our local court, but solicitors were verbally abused and found the experience very unsatisfactory. After that no more firm Pro Bono work has been done. (NSW)
- (xii) Unfortunately, some recipients of pro bono work abuse the concept so that the benefits are not directed to those who are genuinely disadvantaged but obtained by those that could afford to pay but do not want to. This can discourage practitioners from helping at community and other centres if the lawyers are foregoing chargeable work to provide free advice and assistance who could otherwise afford to pay. Also the scarce resources for pro bono work are then tied up and not used for the proper purpose of benefiting the disadvantaged. (NSW)

### **Pro bono and other professions**

*While comparisons may be odious –they did bring out strong feelings in some of the respondents.*

#### **Comments**

- (i) Lawyers should be forbidden from doing pro bono work at their business premises as it cheapens the value of services provided by lawyers around Australia. Doctors, accountants, engineers, builders, electricians, plumbers, etc do not do work for free, their services then have value. Ours have none and are treated as knowledge that can be given away for free. (QLD)
- (ii) We have medicare for doctors, why not lexicare for lawyers ? No other profession is expected to do pro bono work - look at accountants. They are encroaching continuously on legal work, charge high fees, have little regulation, are not required to give estimates of costs, and do not do any pro bono accounting - yet they are not under attack. Why is this - look at government agendas constantly eroding legal rights and civil liberties by blaming lawyers for failures of police and government - and then blaming lawyers for not working for free. Lawyers should be concentrating on upholding these rights under attack, and expanding the availability of legal aid, not worrying about freebies for people who should either pay or be eligible for legal aid (and who do not appreciate the service because it costs them nothing). (NSW)
- (iii) Most lawyers I know do pro bono work and do a lot of work in community groups, giving legal advice and strategic advice to the entities that they join or participate in. ... In addition, a lot of work is done for community groups that need legal services but cannot afford the fees at the

hourly rate. Hence the work is done at heavily discounted rates - often with up to 50% reductions. This is not written up as WIP so is not fees foregone. It is work done without going on any slate. It equates to a substantial pro bono contribution the type of which few, if any, other professions make. (VIC)

### **Encouraging young lawyers**

*Responses to the survey made it clear that the least pro bono work was undertaken by those at the earliest stages of their legal careers (see Part 1.2) – perhaps because of a lack of confidence and experience and a perceived lack of skills. It seems from the following comments that there would be considerable support for programs that assist young lawyers to do pro bono work.*

#### **Comments**

- (i) I feel that all graduates should, as part of their completion of their courses, attend at community legal centres/Legal Aid /work experience say 3 hours per week for 6 month - even if they just 'sit in' on consultations just to see the problems that exist out there for those not able to afford legal help or qualify for legal aid. (QLD)
- (ii) Young/New lawyers should be encouraged to do some pro bono work. The legal 'market' seems to be all about dollars and cents. I do it because I'm concerned that if I don't, who will? The location I work in is full of underprivileged people. These people need help and the profession needs to be accessible to all, not just those who can deposit \$\$\$\$ into trust accounts. (SA)
- (iii) I think that it would be excellent experience for junior lawyers to be more deeply encouraged to do pro bono work, as the client engagement experience is very rewarding. (VIC)
- (iv) I think you should contact every lawyer (particularly younger lawyers starting out who may not be aware of pro bono opportunities) and make it easy for them to get involved. ie. direct them to a person/organisation that can get them started. I have been practising for nearly 4 years and have never been asked to do any pro bono work. If I had, I would have gladly become involved. (VIC)
- (v) Get more senior experienced solicitors - to supervise more junior solicitors or law clerks so they feel they are able to offer their services for pro bono work. (NSW)

### **Community Legal Centres**

*A large number of the respondents to the survey (245, ie.35%) had volunteered at CLCs in the 12 months prior to the survey. As well, 15 of the survey respondents worked as solicitors within CLCs. CLC figures indicate that they provide free referrals, advice and assistance to more than 350,000 people each year across Australia. The National Association of Community Legal Centres reported<sup>31</sup> that in 2002/3 it had 3560 volunteers throughout Australia.*

#### **Comments**

- (i) Pro bono work through volunteering at Community Legal Centres is an effective way of providing a service. The Centres provide a good structure for the delivery of the service. However there are limits - often you can only give advice to the client up to the next stage of their matter. Unless they come back at that point I worry about what they will do then when the time comes to take the matter beyond that stage. (NSW)
- (ii) I volunteer at the local Community Legal Centre 1 day per week to gain experience and to assist people who are disadvantaged. This has been very rewarding for me and has also led to paid days at the centre, and I now do their locum work. (NSW)
- (iii) I have also in the past (but not in the last 12 months) volunteered at a community legal centre which is a rewarding experience. (NSW)

---

<sup>31</sup> *Community Legal Centres – An investment in value*, October 2003 at [www.naclc.org.au](http://www.naclc.org.au)

- (iv) The community legal organisation I have done pro bono work for has very sensibly sought volunteers from members of the legal profession who specialise in particular fields of need, which in my case is employment and discrimination. I think that law society accredited specialists especially can give back to the community through offering their particular expertise. (NSW)
- (v) Our CLC continually undertakes pro bono work, together with Legal Aid work, as no one else has both the expertise and willingness to undertake our particular specialised area (mental health), as there is no money to be had from it. (VIC)

## **2 Attitudes to legal aid**

### **Legal Aid**

*The issue of Legal Aid elicited some strong reactions, both here and in relation to the specific question asked in the Survey (see Appendix 1, Section 10 Legal Aid Work).*

### **Comments**

- (i) The pro bono work I am doing is really work which should be covered by legal aid. The legal aid system has an inbuilt expectation that lawyers will do half the matter for nothing, as well as hours of additional advising/social work to disadvantaged people about legal and general issues. (NSW)
- (ii) I have often undertaken pro bono work because legal aid funding is not available (either because of the type of matter or client means), but the client needs assistance and cannot afford private legal fees. It seems unreasonable, for example, for a grandparent or aunt to have to spend their own limited funds in child welfare proceedings, where they are involved solely in the best interests of the child. (ACT)
- (iii) I do far too much (pro bono) given the volume of legal aid work I also have undertaken. Very difficult to justify wage requests etc without money coming in from work being billed. Often end up reducing or agreeing to a lower than scheduled fee as the person cannot afford my standard rate (\$180 per hour, so not excessive); this leads to me feeling that I have devalued my labour and skills and makes it harder to justify the higher rate to those who have spoken to someone I have discounted for. For these reasons I am doing less pro bono and legal aid work. (QLD)
- (iv) When in private practice over some 11 years I did a variety of pro bono cases in housing law and criminal law; mainly cases that fell through the cracks for Legal Aid in terms of their success profile; however these were important cases from the client point of view. (NSW)
- (v) Pro Bono work is an excellent contribution by legal practitioners to the reputation of lawyers, assistance to those in need and the smooth flow of justice within our nation. When I was a young practitioner I did a lot of work in the criminal and family law areas, without fee. I felt good about it! I thought that it was a very good thing for the reputation of lawyers generally. I loved the real gratitude expressed by clients. The growth of legal aid has seen a change. Legal Aid does not want to pay a proper fee to lawyers. Legal Aid clients expect everything as being their right. Legal Aid clients do not show gratitude as they believe that the lawyers have been paid their normal fee by the legal aid entity. When Government Agencies are set up to provide legal assistance for the poor and needy, let the Government Agency do that by employing their own lawyers. I see no point in propping up the Government Agency when it is in direct competition to the private practitioner. (NSW)
- (vi) Not about the work I do but rather that there should be greater legal aid available for initial stages of pro bono work, particularly the funding of disbursements. (NSW)
- (vii) I do pro bono work if I think it justified in all the circumstances. I do NOT volunteer on Law Society or Bar Association rosters as I do not agree that it should be visited upon me. I often do not agree that certain cases are deserving of pro bono services but are unmeritorious or just clients who think they shouldn't pay. I also object to lawyers funding an inadequate legal aid system.

Having said that - I am generous with my time when I do decide to do pro bono work. Lawyers who do legally aided work are already doing pro bono work, in my opinion! (NSW)

- (viii) I believe that there should be greater government funding for those who are not able to afford legal services. Ironically, lawyers providing pro bono work decreases the need for government funding, but there has been ongoing decrease in funding over the last number of years. It is a shame that the bargaining position of those who most need assistance remains too low. (NSW)
- (ix) My view is that pro bono work should not be required on the scale that is now occurring. I believe the Legal Aid funding from the Federal Government and State Governments should be improved so that all members of our society have access to justice through a regulated Legal Aid system which provides the necessary checks and balances and controls. (TAS)
- (x) Solicitors who engage in Legal Aid matters are vulnerable if asked to engage in pro bono because of the risk to their income. (NSW)
- (xi) It is extremely difficult to reconcile or justify doing pro bono legal work when we do legal aid work as well. Legal aid files are essentially charity files when you consider that we are unable to bill for travel time and wait time and when the hourly rate of pay is so nominal, in circumstances where the issues are demanding and the client profile demanding of resources, time and knowledge. Particularly when you consider the amount of work that is carried out on a legal aid complex file which has exceeded the grant of aid for that section of work. Often you just can't out of a sense of moral responsibility abandon the client despite no funding. Essentially any firm carrying on legal aid work is performing a significant amount of pro bono. It is really disheartening when you consider the source of legal aid (QLD)
- (xii) Over the years since admission I have undertaken a great deal of legal aid work which is extremely poorly paid. I feel I have made my contribution. (QLD)
- (xiii) In practice in Criminal Law it is necessary that you facilitate your client's matters through the court system regardless of their financial situation. That is hand up committals must be taken where the client simply has no way of paying for the service. On many occasions we must do work that is unpaid to enable matters to progress. Particularly with Legal Aid matters the work that must be done to prepare and conduct criminal matters far exceeds the payment received from Legal Aid. However, without our contribution to 'the system' matters would not be resolved. (QLD)
- (xiv) I believe as lawyers we have a social obligation to do pro bono work for genuinely needy people. The decision of who to do work for, should be a decision for each firm given their available time and skills. We have seen pro bono work increase due to the limits on legal aid. Legal Aid and our opinion of appropriate matters to fund now often differ. Therefore, if we genuinely believe a matter should proceed to Court but Legal Aid will not help, we do it pro bono. These clients have nowhere else to go. I get very annoyed when fellow practitioners who do not do any legal aid say they will support us to push for more money for doing legal aid work. If everyone did a bit of legal aid work I could afford the time and resources to do additional pro bono work. (QLD)
- (xv) I feel a professional responsibility to perform the service but resent having to do so in circumstances where it is the result of shrinking government services in the area. (QLD)
- (xvi) I think Legal Aid should provide wider and better assistance to enable those less fortunate to access professional legal advice (QLD)
- (xvii) It is impossible to accept legal aid rates to appear for a child at the Children's Court or in a care application or to appear at a bail hearing if the litigator is not able to make money from the civil circuits coming through town about 2 or 3 times per year. The following are examples of the more important work we do: The farmer who has his crops destroyed by a careless water authority, a landowner who seeks fair compensation for resumption of her land; or the meat industry leader whose product is contaminated by dangerous use of pesticides; the small business owner who is charged with a breach of the OH & S laws; or the individual seeking restraint on unsustainable development; the person assaulted by Police; the person suffering sexual abuse who can only name their attackers years after for fear of retribution (I once successfully ran a claim for a victim

who had been assaulted repeatedly over 20 years from 1961 by her sister's husband. Our total fees for this difficult claim made in the Victims Compensation Tribunal \$1650 incl GST) I would not bother now; the injured shearer who cannot retrain at 40 to be a clerk particularly when he and several generations of his family live 100 km from the nearest large town are all people who would use the services of their local litigator. They could not or should not have to go to the capitals or 1800 numbers to obtain these services. The fabled pro bono legal services cannot exist if there is no profitable work. At the moment by doing legal aid, I and other lawyers are paying \$30 to \$40 per hour for the privilege. (NSW)

### **3 Issues relating to firm practice**

#### **Sole practitioners and small firms**

*The majority of survey respondents were employed in private practice with 15% being sole practitioners (see Part 1, Figure 1). Not surprisingly, small firms have limits on the amount of pro bono they can provide. They are particularly stretched in rural and some suburban areas, as these comments testify. The effects of tort law reforms were mentioned by several respondents.*

#### **Comments**

- (i) I believe most lawyers in small firms carry out pro bono work and always have done without seeking recognition for it. The simple fact is that few individuals can afford full fee legal advice and representation. (NSW)
- (ii) In small practice, it really is impossible in my view to do pro bono (free) work and make a living, particularly if one has employees etc. Small practices, traditionally relying on residential conveyancing and personal injury work, are no longer in the position to finance free work. I'm surprised that there is still an expectation that small practices will do so. I would be surprised if any small practices would continue to do free work in the current legal market. I've done it in the past but think I would be broke now if I had not stopped doing it. (NSW)
- (iii) [We should] get used to continued reductions in pro bono work in rural and smaller firms as more of us get used to low incomes and high demands. (NSW)
- (iv) As a sole practitioner it is difficult to give time to pro bono work, as I work long hours to bring in enough fees to cover overheads. I believe it is important for larger firms to do pro bono work, particularly if they have less experienced lawyers who would gain additional experience in assisting pro bono clients. (NSW)
- (v) We are a small firm. Hence we do not have the resources to devote a person to do extensive pro bono work. Our pro bono work is therefore limited to giving advice and undertaking specific limited tasks for clients whose financial circumstances justify the attention and whose matters are meritorious. Sometimes the job is simply limited to advising such clients that their matter has little/no merit. (SA)
- (vi) There should be greater recognition of the different challenges faced when undertaking pro bono work in a small firm (only 2 lawyers in my case) (TAS)
- (vii) In the past the fees earned from other areas eg: conveyancing, personal injury, etc. were enough to allow us to carry pro bono work however the pressure on our profession to be commercially realistic and subject to market forces has created a situation where it would be irresponsible to take on unpaid matters. (NSW)
- (viii) The debate on tort reform is affecting those in the business of litigation law at the grass roots level. The politics is very potent on this. But why not balance the cry of the community re premiums with a continuing access to country people to legal advice and justice as well as other services. Tort reform did not achieve cheaper premiums, it will not ensure insurance cover for those people unable to obtain cover at the moment, it will only serve to increase insurance company profits while robbing citizens of their long established rights to fair compensation. I am a sole practitioner in personal injury in a country town and I am finding it harder to picture a



future where any litigation services are available to country people and marginalised groups. Although public interest groups and legal aid do a great job they are not available to country people and even the wealthy in the country will soon find it hard to find any litigator outside of the capitals. Without very expensive and bureaucracy ridden institutions it is impossible for these services to exist where there is no regular income. The personal injury law and its profitability underpin all other work for litigators. (NSW)

- (ix) The capacity for a small country practice is restricted by the loss of traditional areas of law making it very difficult to make the time available. There simply are not the profits in small firms to enable a lot of pro bono work to be done. (NSW).
- (x) Living in a regional area the need to undertake pro-bono or legal aid is high. The Drought has taken a huge toll on the area and we are seeing more people looking for fee advice. (NSW)
- (xi) In my view when working in a regional area and in a small firm the community expectation and likelihood of a practitioner undertaking pro bono work is higher. (TAS)

### **Costs in pro bono matters**

*The issue of costs remains a vexed one. The definition used in the survey (see Appendix I) included work done at a reduced fee – but as one respondent stated below under Volunteering & in-firm pro bono, ‘if you get paid anything for it beyond a fruit platter, it is not pro bono’.*

#### **Comments**

- (i) Very often our pro bono work consists of doing work for disadvantaged people living in strata schemes (usually elderly people living on a pension) for a small fee (say around \$250) and carrying the rest of our professional costs. We usually ask them to pay the disbursements which we charge at cost. (NSW)
- (ii) Most of the matters are not viable to bring to court for costs greater than recoverable amounts. (NSW)
- (iii) We will generally take matters that have a possible costs award on spec - ie if our client wins, we take costs but only costs so the client pays nothing, but the other side (usually the Minister for Immigration) pays up if they lose. We think it is important that the costs imperative is maintained in litigated matters, both as an incentive to settle and a disincentive for the other side to press on with weak arguments or drag out proceedings because they don't risk having to pay costs. If there is no possible costs award then we just do it for free. (SA)

### **Matching rhetoric with reality**

*Respondents made it clear that the big firms are doing a great deal of pro bono work – and that their level of pro bono working is increasing (see Part 1. 5). But some also discern a difference between the ways pro bono is discussed – and how it is carried out.*

#### **Comments**

- (i) One thing is a firm saying "we value pro bono work", the other is actually counting it as 'real work' (NSW).
- (ii) In large firms in particular, where the greatest growth/support potential for pro bono lies, the important thing to police, or at least be aware of, is the disparity between stated policies, written 'encouraging' rules, even the bona fide existence of genuinely committed pro bono co-ordinators (all of which are on the rise) and real levels of recognition, firm wide commitment and support for the practical side of what genuine pro bono practice involves (all of which remain woeful). (NSW)
- (iii) Our national firm has dedicated pro bono partners, regular secondment opportunities and an expectation that all lawyers will contribute to the pro bono work of the firm, or external providers (PILCH, HPLC etc). (VIC)

- (iv) We have a detailed and sophisticated policy driven by Senior Management. The policy and practice is co-ordinated nationally and has an identified firm-wide financial target for pro bono work. (SA)
- (v) My firm has a formal pro bono policy, counts pro bono hrs toward billable targets and on paper encourages pro bono work. However, in practice partners are generally dismissive of pro bono work if it occurs in their own practice – it's OK as long as it doesn't get done within their supervised billings budget. The firm promotes itself on the basis of its pro bono policy, but in practice it is not very well implemented. (QLD)

### **Volunteering & in-firm pro bono**

*Responses to the survey indicate that a number of people undertake both volunteering and in-firm pro bono – and that each can be undertaken for quite different reasons (see Part 1.9). There is also a strong sense that in-firm, credited or 'paid' pro bono work is not really pro bono at all.*

#### **Comments**

- (i) My personal opinions are perhaps harsh but: 1. if you get paid anything for it beyond a fruit platter, it is not pro bono 2. if your firm gives you time sheet credit for it, then the individual has given nothing (QLD)
- (ii) The work I do within the firm is very well supported and recognised. The work I do outside of the firm is done with the firm's consent and is respected but it is hard to access resources (legal information etc) for this work. (VIC)
- (iii) The firm I work for has a well developed and strongly implemented pro bono program and policy. However, the policy is people focused and I am more interested in environmental pro bono work which the firm does not endorse. Hence, I have to look outside the firm to engage the type of work I am interested in pursuing. (VIC)
- (iv) I am on call to a disability services workers after hours via mobile so that if their clients are arrested they can call me to give legal advice about police interviews etc. I do this voluntarily and it was arranged privately, but my employer (Legal Services Commission) has no objection because it is in my own time. I also act for clients who don't qualify for legal aid financially but are mentally impaired and charged with an offence. ... On request, I also run after hours seminars for organisations re criminal matters and their clients. (SA)
- (v) I am happy to volunteer my time to attend a community advice bureau on a regular basis, and I have done so for over 25 years. Further, I am willing to accept clients with reasonable legal claims who through lack of financial resources would be unable to achieve the best possible outcome in the circumstances. The clients are treated no differently from fee paying clients by me or my staff, and there is no indication on the outside of the document file that it is a pro bono matter. (VIC)

### **Incentives: Billable hours credit, Budget relief, Financial targets, Time off in lieu, Tax relief**

*There was a variety of opinions about incentives for doing pro bono work. Statistically, the greatest proportion of respondents raised the issue of lack of time (see Part 1.9) – but individually, there were many other views about positive incentives, including paying expenses for volunteers and forms of tax relief.*

#### **Comments**

- (i) I think that in large firms, the main driver to allow people to participate in pro bono work is having a firm that will allow you to count that work towards billable hours and financial targets. (NSW)
- (ii) Our firm now has a (in theory) positive pro bono policy. However we are only permitted either 1 or 3 hours per month (I forget which) of pro bono work to be counted towards billable hours and financial targets. (ACT)

- (iii) I worked as an immigration lawyer and did a fair amount of pro bono work in refugee and immigration law, as well as some international child abduction work. At the time, the firm I worked for supported this work and were happy for me to do pro bono work, so long as my billable hours did not change. (NSW)
- (iv) I think that unless the firm views volunteering as part of the billable hours that are to be achieved that day, then there should be no obligation on lawyers to do pro bono work. I do not believe that lawyers should be viewed as any different to other professions and so should not have a professional responsibility to give up their time if they still need to work the far longer hours necessary to meet firm targets. (QLD)
- (v) From the lawyer's point of view though, pro bono work is not acknowledged as 'true billable work', it is not taken into account as part of the required financial target and it is not universally acknowledged by partners or management as a productive thing to do. This is ironic when it is the firms that bask in the glory of the pro bono hours they provide - while the lawyers doing the work are pulling their hair out trying to keep their heads above their billable targets (let alone trying to maintain some sort of work/life balance). This means that performing pro bono work becomes a burden - no matter how strongly you believe that all lawyers have a duty to do this work to give something back to the community and to help people who may have no other means of access to the legal system. After years of practice this is something that I have become very cynical about, which makes me very sad. (VIC)
- (vi) The firm I work in makes statements about its support for pro bono work. The leader of my practice group however would not support any pro bono work that I did. My practice group is very stuck on its financial targets to the extent that if I spent any time doing pro bono, I would need to make up those hours by working weekends or later nights. Unfortunately I don't think that kits, manuals and policies will make any difference to this sort of mindset. It requires institutional change in attitudes towards billable hours or brainwashing! (VIC)
- (vii) My firm is very encouraging of lawyers' undertaking pro bono work - it has a written policy and a coordinator. However, it does try to share the work around and, as such, I have been discouraged for completing more pro bono work this year (as my billables have suffered). (VIC)
- (viii) Also, as lawyers' spare time is generally minimal, giving them time off in lieu of time spent on external pro bono work would be good. (VIC)
- (ix) I volunteer at a community legal centre for about 4 hours a fortnight. I pay about \$8 to get there on public transport or do an hour round-trip drive. Volunteer work should be tax deductible, ie. I should be able to claim my train ticket or cost of petrol/use of car on my tax. Or, we should have recognised (legislated) volunteer leave, in addition to annual leave and personal leave. These would encourage people to take up volunteer work, without which society would suffer. (VIC)
- (x) I trust the results will be useful in expanding pro bono work and in convincing government to come up with a community wage to put community credits up for this type of work. Pro bono work should at least receive some tax relief as opportunity cost lost income against real income actually earned. (QLD)

### **Making a pro bono contribution**

*The range of pro bono practice is wide with respondents working in areas from AIDS to property law for apartment dwellers. Respondents had firm ideas about what were – and were not - appropriate areas for their own, or their firm's, pro bono practice. Client needs, expertise, age and seniority and conflicts of interests were raised as issues (see data on these at Part 1).*

### **Comments**

- (i) I work in a corporate firm and we only do civil pro bono work. I do not think it would be appropriate for solicitors at my firm to profess to practice criminal law. (VIC)
- (ii) You may be aware of the rise in apartment living. Residential apartments are worth over \$50 billion to Victoria and apartment owners currently have no capacity (financially and legally) to get

legal advice in a very complex legal area. Apartment living, in my view, is a huge consumer issue. However, there is no Government Body supervising this area. People are committing \$500,000 to the purchase of an apartment and risking unlimited liability to people who are not accountable. Consequently, the City Council and ABC Radio have asked me to provide ongoing free community education every couple of months. (VIC)

- (iii) This work I do is for people who are dying - of AIDS. They are therefore poor. It is not due to any parsimonious attitude on their part that they cannot go to well qualified private lawyers. (VIC)
- (iv) My pro bono work is with people who suffer with drug and alcohol problems, homelessness, mental ill health and disability. (VIC)
- (v) I work in a large commercial firm. Most of the pro bono work I do is through occasional visits to a homeless shelter on a roster system. Sometimes I feel helpless in this type of situation as it is not the work that I specialise in. If there were more pro bono work available, eg. assisting large charities on issues that are relevant to my work, I think that I would be more confident completing it and senior staff would be more able and happy to provide assistance. (QLD)
- (vi) I limit my pro bono work to verbal advice or letter writing or telephone calls. Academic commitments and time constraints leave me unable to commit to more. (NSW)
- (vii) We are also conflicted out of many potential pro bono matters as the Commonwealth Government is our main client in this office. We also do not have the necessary background to provide assistance where it is needed in criminal and family matters. There have only been 2 small pro bono matters brought in to this office, to my knowledge, in the last year. (ACT)
- (viii) The firm does do some pro-bono work and it is encouraged but it is difficult given the high probability of being in conflict with one of our large corporate or government clients. Hence why I do non-representational community/volunteer work within the profession. (SA)
- (ix) I attend Legacy House at the same time each week and confer with Legatees who have arranged an appointment. Any work relating to Wills is done for free. I provide initial advice relating to other matters for free. However, if we continue to act, we charge our usual rates for that work. We provide Powers of Attorney and Appointments of Enduring Guardian at a reduced rate. (NSW)
- (x) I am approaching the end of my practising career, and the areas in which I practice are narrowing, and are less and less in the areas in which there is demand for pro bono work. In the past when I had a broader practice, I did a great deal more pro bono work. (NSW)
- (xi) The main way I have done any pro bono work is to work at a reduced fee (not including the legal aid work). (SA)
- (xii) Pro bono forms part of my practice's day to day work. It really is simply part of practice in that there are almost daily inquiries either from individuals, community groups, support services that are given time and attention. Probably the vast majority of work is handled by a simple phone response or single attendance. (VIC)
- (xiii) At the moment my practice is very quiet and I am doing more pro bono work than billable work. The same applies for at least one of my colleagues at the firm. I am the pro bono coordinator for our office and I spend a considerable amount of time sourcing pro bono work and building relationships with community legal service providers and NGOs who would appreciate our assistance. I receive 5 hours per week budget relief for being the pro bono coordinator. (NT)
- (xiv) Pro bono work is done for those who do not have the capacity to pay. I work for young people, disadvantaged folk, mainly in criminal matters. I NEVER turn down a person who is a first offender, as I understand what a conviction will bring. I also do a lot of Traffic Matters where loss of licence is involved. Loss of licence is loss of JOB. I am also involved in Hearing of Criminal Matters, mainly at Local Court level. In matters where barristers are involved I work for no fee. I am an experienced criminal lawyer who has worked for years with Aboriginal people. My results at pro bono work have actually been better than when I worked full time. I confess that I am attracted to the hard matters/ interesting ones. I am considering assisting the local CLC. However, I may elect to travel away from home, as I don't want to become involved with people in my

neighbourhood. Solicitors could do more pro bono work in an effort to overcome the public perception that we are all sharks.!!!! I don't tell people I am a solicitor at social functions (we are so disliked). (NSW)

- (xv) It is also important for large firms to have a pro bono program in place that allows people to actually be seconded to a legal centre, as this gives you first hand experience in assisting people from disadvantaged and teaches you just how disadvantaged some members of society are and how little those people have in terms of opportunities for representation and advice. You are better able to understand the scale and scope of the issues facing the disadvantaged when you are allowed out of your city office!! This something that is so important for lawyers to learn, particularly at an early stage. In particular, it is important for lawyers in large firms to understand how advantaged their firm's clients are compared to the rest of society and to understand how the law works for those with the financial and mental capacity to use it to their advantage, and by comparison how it works to the disadvantage of those without that capacity. It also helps just to get a better understanding of the causes of social disadvantage. (NSW)
- (xvi) The bigger firms have moved away from those areas of practice which appear to be most useful for individuals in need of assistance e.g. crime, family law, wills and probate. We therefore seem to help needy non-profit groups looking to set up or change organisational structures to achieve charity status and the benefits that go with that. (VIC)
- (xvii) The firm accepts pro bono work (mainly giving advice) from many not for profit organisations. This work is usually referred from a partner of the firm (whose client it is) to a solicitor practising in the area of law requiring advice. The time for that matter is recorded as "pro bono" on our electronic timesheets so that the firm can see the allocation of time devoted to this as well as paid work. It is not actively encouraged but encouraged to the extent that we happen to have regular pro bono clients (such as charitable organisations) and most solicitors of the firm will get to deal with a matter at some stage, although some of us definitely do more than others due to building solid and trusted relationships with the client. (TAS)
- (xviii) My firm discourages more senior lawyers because of their charge out rates. (NSW)
- (ixx) Most of my firm's pro bono work is carried out by junior lawyers, with few senior supervisors and particularly few males. (NSW)
- (xx) I think it is important to implement measures which keep lawyers interested in performing pro bono work when they progress above a more junior level and become more busy with their fee earning work. (NSW)

## **4 The role of government**

### **Encouraging government lawyers**

*At approximately 5%<sup>32</sup> of legal practitioners nationally, there is enormous potential for lawyers working within government departments to make a pro bono contribution. Many claim they would if they could.....but.....*

#### **Comments**

- (i) I think Commonwealth Attorney General's Department through the office of legal services coordination should be approached to develop a policy enabling government lawyers to do pro bono work in the same way that large commercial firms have such policies. There are many government lawyers with appropriate skills who would be interested but there is a lack of internal support for anything which could be seen to be done on government time. (NSW)
- (ii) Make it easier for in-house lawyers (many of whom have more time and more flexible work hours - without the pressure of billable hours) to do pro bono work. (NSW)
- (iii) I would like to work pro bono but unfortunately the work that I undertake - being an in-house lawyer to a government agency - doesn't allow for it. (NSW)

---

<sup>32</sup> ABS note 1 above, table 1.1

## The Government legal services and pro bono incentive schemes

### Comments

- (i) Many Government Departments now expect their lawyers to provide pro bono work to the community in order to become part of the Department's legal panel - an example of the Government outsourcing its own responsibilities to the disadvantaged. The same Departments want their advice cheap. Consequently, lawyers are wedged between providing the Department with low hourly rates but trying to make enough profit to sustain substantial pro bono work. (NSW)

### 5 Particular state issues

*Some respondents wanted to comment about pro bono within their state – and about their respective Law Societies. As there were just 2.6% of respondents from Tasmania (see Part I, Table 2), the number of comments from Tasmanian lawyers indicates that there is some concern there about the state and status of pro bono services.*

### Responses

#### New South Wales

- (i) Our Law Society does little to lift Lawyers profile in the community. I do not think most people are aware of how much work many of us do on a pro bono basis.
- (ii) I think that the issue of pro bono should not be over-stated by the Law Societies. Some firms are fighting for survival and others are fat on high charge out rates. To be prescriptive is dangerous.
- (iii) I have been on the NSW pro bono register for at least 10 years. During this time I received one referral from the NSW Law Society after I rang them and enquired why they hadn't sent any matters to me. I have received no further referrals since.
- (iv) I have been a member of the law society for 3.5 years, with my full contact details available and clearly used by various commercial entities that are linked to the Law Society, yet I have not once in my recollection received a request to volunteer to assist in any regional based after hours type of free advice program. I do not have the time or inclination to organise any such scheme (and frankly the PI ramifications would prevent even someone with the inclination) but I would willingly make myself available on a regular basis if such a scheme with appropriate liability cover ran in my area.
- (v) I believe that our State Law Society should be part of the pro bono work body and employ new law graduates to do pro bono work as a way of assisting them in gaining work experience.

#### Tasmania

- (i) Tasmania is a bit behind in the whole pro bono thing. Junior lawyers need to drive its take-up here. My observation is they're not as enthusiastic about it here - maybe because they haven't seen all the great work that you can do pro bono. Perhaps more visiting speakers should come talk to Tasmanian Young Lawyers at the Law Society about it? Also all the firms in Tassie are much smaller so there is not the same professional resourcing for pro bono coordination as bigger firms - but there's definitely an ability to do pro bono work here in my opinion.
- (ii) We need an overarching policy from the Law Society that will give some strength to practitioners to do pro bono. Also the Law Society could form a clearing house to distribute pro bono work to those who want to receive it, thereby taking the pressure off those who do not.
- (iii) There is a need for lawyers to do pro bono work in Tasmania with arrested activists, and for senior lawyers to help the younger lawyers who are doing it - eg. me! There is only one I have found and I could not do it without his help. The EDO, Legal Aid and community legal centre will not represent them.

- (iv) I have worked mostly pro bono in my practice but am now cutting out this work as clients, other lawyers and courts have little respect for these efforts.
- (v) Tas should adopt a pro bono clearing house.
- (vi) It would be useful to have a network of pro bono solicitors to call on for advice.
- (vii) Employment law work is an area that pro-bono could be useful.

### ***South Australia***

- (i) In my opinion, a lack of support from commercial firms is the major obstacle to providing more pro bono assistance in South Australia.

### ***Queensland***

- (i) The Queensland Law Society (QLS) Practice Management Course is extremely discouraging of pro bono work. Previous practice management specialists have suggested that firms that do non-paying work should not be in practice. The emphasis on the top tier firms approach to billing is very discouraging to the majority of professionals who choose not to pursue this profession for purely mercenary reasons - and hence tend not to work for large firms. This attitude was most outrageously reflected in the speakers assumption that most partners in firms should arrange their tax affairs to take into account the (assumed) financially dependant wife. QLS really need to look at their PMC in this regard.

## Part 3: Appendices

### Appendix I

#### Survey Questions

The survey seeks to identify the amount of **pro bono legal work** being performed by lawyers in Australia. For the purposes of this survey, pro bono legal work is time spent by lawyers:

1. Giving **legal assistance** for **free** or at a **substantially reduced fee** to:
  - a. Low income or disadvantaged individuals who do not qualify for legal aid; or
  - b. Non-profit organisations which work on behalf of low income or disadvantaged members of the community or for the public good
2. Doing **law reform or policy work** on issues affecting low income or disadvantaged members of the community or public interest matters
3. Participating in the provision of **free Community Legal Education** on issues affecting low income or disadvantaged members of the community or public interest matters
4. On secondment at a **community organisation** or at a referral service provider

What is *not* **pro bono legal work**? The following **is not** regarded as **pro bono legal work** for the purposes of this survey:

1. Giving **legal assistance** to any person for free or at a reduced fee without reference to whether he/she can afford to pay for that **legal assistance** or whether his/her case raises an issue of public interest e.g. **legal assistance** provided to friends and family of clients or employees of the firm for free or at a reduced fee;
2. Free first consultations with clients who are otherwise billed at a firm's normal rates;
3. **Legal assistance** provided under a grant of legal assistance from Legal Aid;
4. Contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee;
5. The sponsorship of cultural and sporting events, work undertaken for business development and other marketing opportunities; or
6. Time spent by lawyers sitting on the board of a **community organisation** (including a community legal organisation) or a charity.

A **glossary of terms** is provided at the back of this survey (for **terms underlined in bold** in this survey).

Please indicate the state or territory where your office is located:

1. Australian Capital Territory
2. New South Wales
3. Northern Territory
4. Queensland
5. South Australia
6. Tasmania
7. Victoria
8. Western Australia

#### Section 1 - About you

1. How long have you been admitted to practice?
  1. Less than 1 year
  2. 1-2 years
  3. 3-5 years
  4. 6-10 years
  5. 11-20 years
  6. 21-30 years
  7. Over 30 years
2. How old are you?
  1. Under 26
  2. 26-30
  3. 31-40
  4. 41-50
  5. 51-60
  6. 61 or over
3. Are you...?



1. Male
2. Female

### Section 2 - About your job

1. What is your position?
  1. Sole practitioner in private practice
  2. Partner in private practice
  3. Employee solicitor in private practice
  4. Solicitor in community legal centre
  5. Government lawyer
  6. Corporate lawyer
  7. Academic lawyer
  8. Other (please specify)
2. Do you work...?
  1. Full-time?
  2. Part-time?
3. Where is your office located?
  1. Capital city CBD
  2. Capital city suburb
  3. Regional city or area
  4. Remote area
4. In which area(s) do you practice?
  1. Administrative / Constitutional
  2. Banking/Finance
  3. Bankruptcy
  4. Company / Commercial
  5. Construction
  6. Consumer
  7. Criminal Law
  8. Debt
  9. Discrimination
  10. Domestic Violence
  11. Employment
  12. Environment
  13. Family Law
  14. Housing / Tenancy
  15. Immigration
  16. Incorporations
  17. Insurance
  18. Intellectual Property
  19. Litigation
  20. Personal Injury
  21. Powers of Attorney / Guardianship
  22. Property
  23. Social Security
  24. Tax
  25. Wills / Probate / Estate
  26. Other (please specify)

### Section 3 - Brief details of your firm/office

1. How many partners are there in your office?
  1. Sole practitioner / 1 partner
  2. 2 partners
  3. 3-5 partners
  4. 6-9 partners
  5. 10 or more partners
  6. Other (please specify)
2. How many lawyers (including partners) are there in your office?
  1. 1 lawyer
  2. 2-5 lawyers
  3. 6-15 lawyers
  4. 16-40 lawyers
  5. Over 40 lawyers
3. Does your **firm** have more than one office?
  1. No
  2. Yes
4. About your **firm**'s offices...
  1. My firm has more than one office in the State/Territory in which I work
  2. My firm has more than one office in another State/Territory
  3. My firm has offices in more than one State/Territory
  4. My firm has offices in more than one country
  5. None of these

### Section 4 - Your Participation

1. In the past 12 months have you spent time doing or coordinating the provision of **pro bono legal work**?
  1. No
  2. Yes
2. In which of the following areas of law have you done **pro bono legal work** in the last 12 months?
  1. Administrative / Constitutional
  2. Banking/Finance
  3. Bankruptcy
  4. Company / Commercial
  5. Construction
  6. Consumer
  7. Criminal Law
  8. Debt
  9. Discrimination
  10. Domestic Violence
  11. Employment
  12. Environment

13. Family Law
14. Housing / Tenancy
15. Immigration
16. Incorporations
17. Insurance
18. Intellectual Property
19. Litigation
20. Personal Injury
21. Powers of Attorney / Guardianship
22. Property
23. Social Security
24. Tax
25. Wills / Probate / Estate
26. Other (please specify)

3. Is your **pro bono legal work** undertaken with your **firm**'s knowledge?

1. Yes
2. No

4. Have you ever done **pro bono legal work**?

1. No, I have never done pro bono legal work
2. Yes, I have done pro bono legal work previously

#### Section 5 - Types of pro bono legal work

1. How have you done **pro bono legal work** in the past 12 months? *[Tick all that apply.]*

1. By doing **pro bono legal work in-firm**
2. Volunteering **legal assistance** at a **community organisation**
3. Being seconded to a **community organisation**
4. Participating in a law **firm specialist service**
5. Being on a duty roster at a court or tribunal
6. Other (please specify)

#### DOING PRO BONO LEGAL WORK IN-FIRM

2. Which of the following **pro bono legal work** have you done in the past 12 months by doing pro bono legal work in-**firm**? *[Tick all that apply below]*

3. Please could you rank the pro bono legal work according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?

1. Advice (verbal or written)
2. Litigation (pre-trial)

3. Representation before a court or tribunal

4. **Transactional Work**

5. Negotiation/ADR

6. **Community Legal Education**

7. **Law reform and policy**

8. Other (please specify)

4. Please could you tell us for whom this in-**firm pro bono legal work** was done? *[Tick all that apply below]*

1. Advice (verbal or written) for – individuals; community legal organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations
3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations
4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations
5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations
6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations
7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations
8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations

#### VOLUNTEERING LEGAL ASSISTANCE AT A COMMUNITY ORGANISATION

2. Which of the following **pro bono legal work** have you done in the past 12 months volunteering **legal assistance** at a **community organisation**? *[Tick all that apply below]*

3. Please could you rank the **pro bono legal work** according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?

1. Advice (verbal or written)
2. Litigation (pre-trial)

3. Representation before a court or tribunal
4. **Transactional Work**
5. Negotiation/ADR
6. **Community Legal Education**
7. **Law reform and policy**
8. Other (please specify)

4. Please could you tell us for whom this volunteering **legal assistance** at a **community organisation pro bono legal work** was done? *[Tick all that apply below]*

1. Advice (verbal or written) for – individuals; community legal organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations
3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations
4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations
5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations
6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations
7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations
8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations

5. When volunteering **legal assistance** at a **community organisation** what type of organisation was it?

1. A community legal centre or service
2. A not for profit organisation
3. Other (please specify)

#### **ON SECONDMENT TO A COMMUNITY ORGANISATION**

2. Which of the following **pro bono legal work** have you done in the past 12 months being seconded to a **community organisation**? *[Tick all that apply below]*.

3. Please could you rank the **pro bono legal work** according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?

1. Advice (verbal or written)
2. Litigation (pre-trial)
3. Representation before a court or tribunal
4. **Transactional Work**
5. Negotiation/ADR
6. **Community Legal Education**
7. **Law reform and policy**
8. Other (please specify)

4. Please could you tell us for whom this being seconded to a **community organisation pro bono legal work** was done? *[Tick all that apply below]*

1. Advice (verbal or written) for – individuals; community legal organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations
3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations
4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations
5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations
6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations
7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations
8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations

6. To which type(s) of **community organisation** were you seconded?

1. A community legal centre or service
2. A public interest law **clearing house**
3. A not for profit organisation
4. Other (please specify)

7. How long did your secondment last?

1. Less than 1 month
2. 1-3 months
3. 4-6 months
4. 7-12 months
5. Over 12 months

8. Was it a full time or part time secondment?

1. Full-time
2. Part-time

9. How often did you attend the place of secondment? e.g. two days a fortnight. Please specify:-

3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations

4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations

5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations

6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations

7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations

8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations

#### **PARTICIPATING IN A LAW FIRM SPECIALIST SERVICE**

2. Which of the following **pro bono legal work** have you done in the past 12 months participating in a law firm **specialist service**? [Tick all that apply below]

3. Please could you rank the **pro bono legal work** according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?

1. Advice (verbal or written)
2. Litigation (pre-trial)
3. Representation before a court or tribunal
4. **Transactional Work**
5. Negotiation/ADR
6. **Community Legal Education**
7. **Law reform and policy**
8. Other (please specify)

4. Please could you tell us for whom this participating in a law firm **specialist service pro bono legal work** was done? [Tick all that apply below]

1. Advice(verbal or written) for – individuals; community legal organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations

#### **DUTY ROSTER AT A COURT OR TRIBUNAL**

2. Which of the following **pro bono legal work** have you done in the past 12 months being on a duty roster at a court or tribunal? [Tick all that apply below].

3. Please could you rank the **pro bono legal work** according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?

1. Advice (verbal or written)
2. Litigation (pre-trial)
3. Representation before a court or tribunal
4. **Transactional Work**
5. Negotiation/ADR
6. **Community Legal Education**
7. **Law reform and policy**
8. Other (please specify)

4. Please could you tell us for whom this being on a duty roster at a court or tribunal **pro bono legal work** was done? [Tick all that apply below]

1. Advice(verbal or written) for – individuals; community legal organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations

3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations
  4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations
  5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations
  6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations
  7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations
  8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations
10. What is the name of the court or tribunal where you were on a duty roster?  
Please specify :-
11. How often did you attend on a duty roster?  
E.g. a day a fortnight.  
Please specify:-

#### OTHER PRO BONO LEGAL WORK

2. Which of the following **pro bono legal work** have you done in the past 12 months with regard to this work? [*Tick all that apply below*].
3. Please could you rank the **pro bono legal work** according to the amount of time you have spent on each activity (with 1 being the work on which you have spent most time)?
  1. Advice (verbal or written)
  2. Litigation (pre-trial)
  3. Representation before a court or tribunal
  4. **Transactional Work**
  5. Negotiation/ADR
  6. **Community Legal Education**
  7. **Law reform and policy**
  8. Other (please specify)

4. Please could you tell us for whom this other **pro bono legal work** was done? [*Tick all that apply below*]

1. Advice (verbal or written) for – individuals; community legal

- organisations; other not for profit organisations
2. Litigation (pre-trial) for – individuals; community legal organisations; other not for profit organisations
3. Representation before a court or tribunal for – individuals; community legal organisations; other not for profit organisations
4. **Transactional Work** for – individuals; community legal organisations; other not for profit organisations
5. Negotiation/ADR for – individuals; community legal organisations; other not for profit organisations
6. **Community Legal Education** for – individuals; community legal organisations; other not for profit organisations
7. **Law reform and policy** for – individuals; community legal organisations; other not for profit organisations
8. Other (please specify) for – individuals; community legal organisations; other not for profit organisations

#### Section 6 - Practice Issues

1. Does your **firm** have a written **pro bono policy**?
  1. Yes
  2. No
  3. Don't know
2. Do you keep any record of the pro bono work that you are doing?
  1. Yes
  2. No
3. Does your **firm** track how much pro bono work you do?
  1. Yes
  2. No
  3. Don't know
  4. Please specify
4. Does your **firm** take your **pro bono legal work** into account (in a positive manner)?
  - a. In your performance appraisal?
    1. Yes
    2. No

3. Don't know
  4. Not applicable
- b. When considering you for promotion or advancement?
1. Yes
  2. No
  3. Don't know
  4. Not applicable
- c. In your salary reviews?
1. Yes
  2. No
  3. Don't know
  4. Not applicable
- d. In meeting billable hours targets?
1. Yes
  2. No
  3. Don't know
  4. Not applicable
- e. In meeting financial targets?
1. Yes
  2. No
  3. Don't know
  4. Not applicable

#### Section 7 - Amount of pro bono work

1. Can you estimate how many hours of **pro bono legal work** you have completed in the last 12 months?

1. None
2. 5 hours or less
3. 6-10 hours
4. 11-20 hours
5. 21-30 hours
6. 31-40 hours
7. 41-50 hours
8. 51-70 hours
9. 71-90 hours
10. More than 90 hours
11. Don't know

2. How much of this work was done as part of your paid employment?

1. 0%
2. 1– 20%
3. 21 – 40%
4. 41 – 60%
5. 61 – 80%
6. 81 – 100%

3. Have you spent more or less time in **pro bono legal work** in the past 12 months than in the previous 12 months?

1. More
2. Less
3. No change
4. Don't know

#### Section 8 - Sources of pro bono work

1. When you take on new pro bono matters, from where do those new matters originate? *[Tick all that apply below].*

2. Please rank them according to how many referrals come from each source (1 being the largest source).

1. Direct requests to you from a family member or friend
2. Direct requests to you from existing clients
3. Direct request to you (cold call) from a potential client
4. Referral by other employees or members of the firm
5. Referral from a barrister
6. Referral from professionals other than lawyers
7. Referral from the Law Society
8. Referral from courts, tribunals or complaint handling bodies
9. Referral from Legal Aid
10. Referral by a community legal centre or service
11. Referral from an Indigenous Legal Organisation
12. Don't know
13. Other (please specify)

## Section 9 - Obstacles to Pro Bono

1. What gets in the way of you doing **pro bono legal work**? [Tick all that apply below].

2. Please rank the obstacles you have ticked in order of significance to you (1 being the most significant).

1. Lack of time
2. Lack of firm support for pro bono
3. Discouragement from your firm/supervisor
4. Concern about conflict of interest with fee paying clients
5. Pro bono hours do not count towards my billable hours or financial targets
6. Difficulty in meeting billable hours or financial targets
7. Lack of information about opportunities / Don't know how to find clients
8. Lack of adequate PI insurance
9. Lack of appropriate practising certificate
10. Insufficient expertise in relevant areas of law
11. Not interested
12. It is the governments responsibility to provide adequate resources
13. There are no obstacles to pro bono legal work
14. Other (please describe)

3. What actions could your **firm** take that would encourage you to do more pro bono? [Tick all that apply below].

4. Please rank the actions that you have ticked in order of how helpful each would be in encouraging you to do more pro bono (1 being most helpful).

1. Clearer support from your firm
2. Appointment of a pro bono representative
3. Adoption of a formal **pro bono policy**
4. Provision of training for lawyers on areas of law that are common to pro bono matters
5. More flexible work hours
6. Make a wide range of pro bono opportunities available to you
7. Recognition for pro bono work in performance appraisal
8. More appreciation/recognition of my pro bono work generally

9. Counting approved pro bono hours as billable hours
10. Giving full credit for pro bono work in relation to my financial targets
11. More opportunities to work on discrete tasks rather than full representation
12. Other (please describe)

## Section 10 - Legal Aid work

1. Did you do any legal aid work in the last 12 months?

1. Yes
2. No

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

1. 0-5%
2. 6-10%
3. 11-20%
4. 21-50%
5. Over 50%

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

## Section 11 - Attitudes to pro bono legal work

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

1. Yes
2. No

2. Tick the top two factors as to why you think lawyers should do **pro bono legal work**.

1. Out of a sense of professional responsibility
2. To help people who are socially disadvantaged or marginalised
3. To broaden their legal skills
4. It may lead to paid work
5. Provides a positive public profile for the firm
6. Personal satisfaction from providing the service
7. Lifts morale in the firm

3. What do you think is your **firm**'s/employer's attitude to pro bono?

1. My firm/employer encourages all lawyers within the firm/organisation to

take on pro bono matters during work hours

2. My firm/employer leaves the decision of whether to do pro bono work during work hours to the individual lawyer
3. My firm/employer encourages all lawyers within the firm/organisation to carry out pro bono work but only outside work hours
4. My firm/employer discourages lawyers in the firm/organisation from doing pro bono work during work hours
5. Please specify

4. In relation to pro bono matters that you carry out during work hours, who supervises that pro bono work?

1. A partner
2. The firm's pro bono representative e.g. pro bono coordinator or officer
3. An employee solicitor who is more senior than me
4. No one
5. I do not do any pro bono matters during work hours
6. Please specify

5. Do you think that the Law Society should issue a policy statement about lawyers' commitment to pro bono services?

1. Yes
2. No

6. Do you think it should include a voluntary pro bono goal to encourage all lawyers to aspire to perform **pro bono legal work**?

1. Yes
2. No

#### Section 12 - Australian Pro Bono Manual

1. Are you aware of the Australian Pro Bono Manual – a Practice Guide and resource Kit for Law Firms? This Manual was compiled to enhance and encourage the provision of pro bono legal services. Through a mixture of commentary, advice, precedents, and background information it is of value to individual lawyers and firms who are seeking resources and ideas about pro bono.

1. Yes
2. No

#### Section 13 - What else can you tell us?

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



## Glossary of Terms used in Questionnaire

### **“Clearing house”**

A Public Interest Law Clearing House or the ACT Pro Bono Clearing House

### **“Community legal education”**

Such work includes giving seminars to, or preparing training materials for community organisations

### **“Community organisation”**

A community legal centre or service, specialist community legal service or other non-profit organisation

### **“Fee earner”**

This includes every **principal** and employee solicitor working in the firm

### **“Firm”**

For multi-office firms, this includes all offices

### **“Law reform and policy work”**

This might include preparation of law reform submissions and lobbying government

### **“Legal assistance”**

Includes advice, transactional services, negotiation, representation or mediation

### **“Principal”**

A principal is an individual who holds the equivalent of an unrestricted practising certificate

### **“Pro bono clearing house”**

A public interest law clearing house

### **“Pro bono policy”**

This is a firm’s internal policy relating to pro bono work and may take many different forms. It may be formal (written) or informal (based on past practice). Most commonly it provides for what the firm regards as pro bono, what matters can be taken on pro bono, how pro bono matters are to be treated.

### **“Specialist services”**

Specialist services are legal services based in the community where law firms contribute resources and staff to establish and/or run such services (such as the Homeless Persons Legal Services, Youth Legal Service in Melbourne or Shopfront Legal Service in Sydney).

### **“Transactional work”**

Includes: Contracts and funding agreements, incorporation and restructures, corporate governance, income tax exemptions, insurance, leases

## Definition of pro bono legal work

For the purposes of this survey, **pro bono legal work** is time spent by lawyers:

1. Giving **legal assistance** for **free** or at a **substantially reduced fee** to:
  - a. Low income or disadvantaged individuals who do not qualify for legal aid; or
  - b. Non-profit organisations which work on behalf of low income or disadvantaged members of the community or for the public good
2. Doing law reform or policy work on issues affecting low income or disadvantaged members of the community or public interest matters
3. Participating in the provision of **free Community Legal Education** on issues affecting low income or disadvantaged members of the community or public interest matters
4. On secondment at a **community organisation** or at a referral service provider

The following **is not** regarded as **pro bono legal work** for the purposes of this survey:

7. Giving **legal assistance** to any person for free or at a reduced fee without reference to whether he/she can afford to pay for that **legal assistance** or whether his/her case raises an issue of public interest e.g. **legal assistance** provided to friends and family of clients or employees of the firm for free or at a reduced fee;
8. Free first consultations with clients who are otherwise billed at a firm’s normal rates;
9. **Legal assistance** provided under a grant of legal assistance from Legal Aid;
10. Contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee,
11. The sponsorship of cultural and sporting events, work undertaken for business development and other marketing opportunities; or
12. Time spent by lawyers sitting on the board of a **community organisation** (including a community legal organisation) or a charity.

## Appendix II

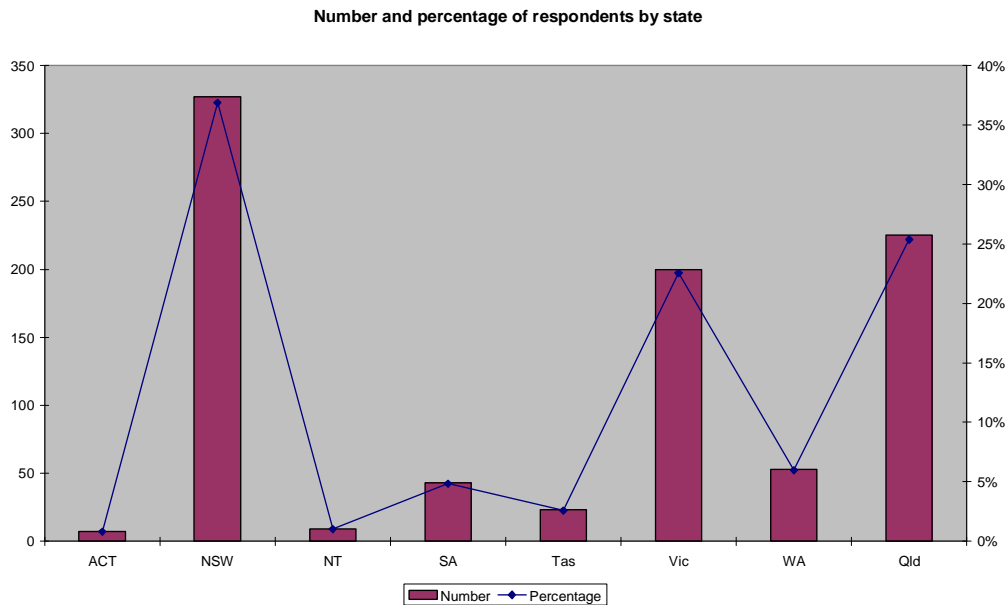
### Responses to Survey Questions; all states

Please indicate the state or territory where your office is located:

**Table 1**

State	Number	Percentage
ACT	7	1%
NSW	327	37%
NT	9	1%
SA	43	5%
Tas	23	3%
Vic	200	23%
WA	53	6%
Qld	225	25%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 1**



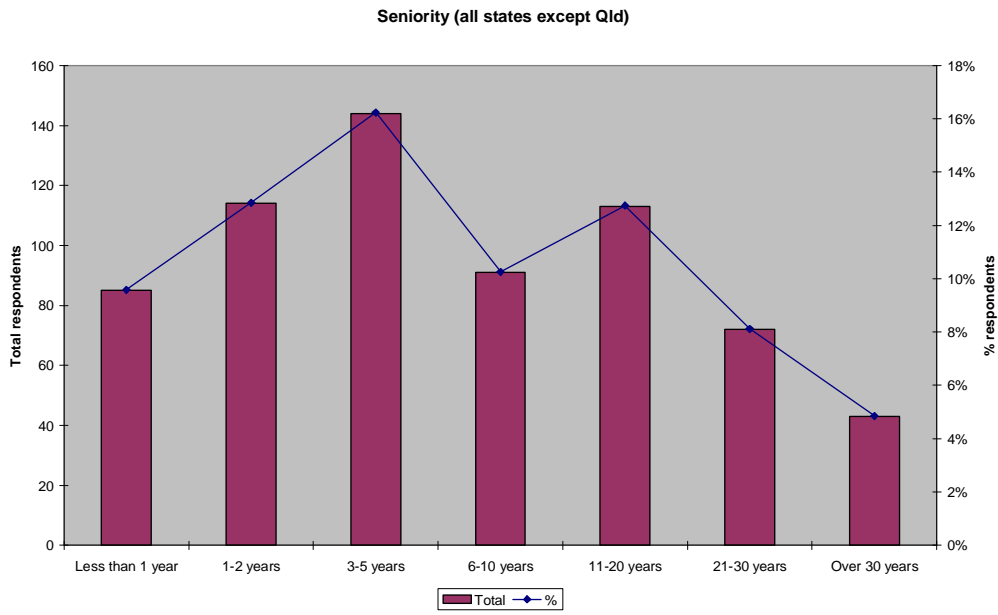
### Section 1 - About you

1. How long have you been admitted to practice?

**Table 1.1**

Seniority (except Qld)	Total	%
Less than 1 year	85	10%
1-2 years	114	13%
3-5 years	144	16%
6-10 years	91	10%
11-20 years	113	13%
21-30 years	72	8%
Over 30 years	43	5%
<b>Total</b>	<b>662</b>	<b>100%</b>

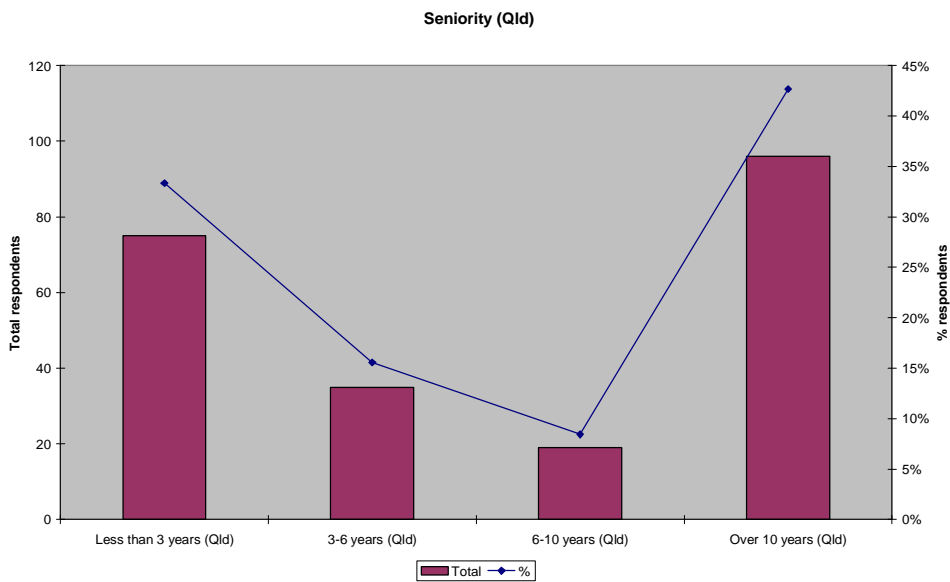
**Figure 1.1**



**Table 1.2**

Seniority (Qld only)	Total	%
Less than 3 years (Qld)	75	33%
3-6 years (Qld)	35	16%
6-10 years (Qld)	19	8%
Over 10 years (Qld)	96	43%
<b>Total</b>	<b>225</b>	<b>100%</b>

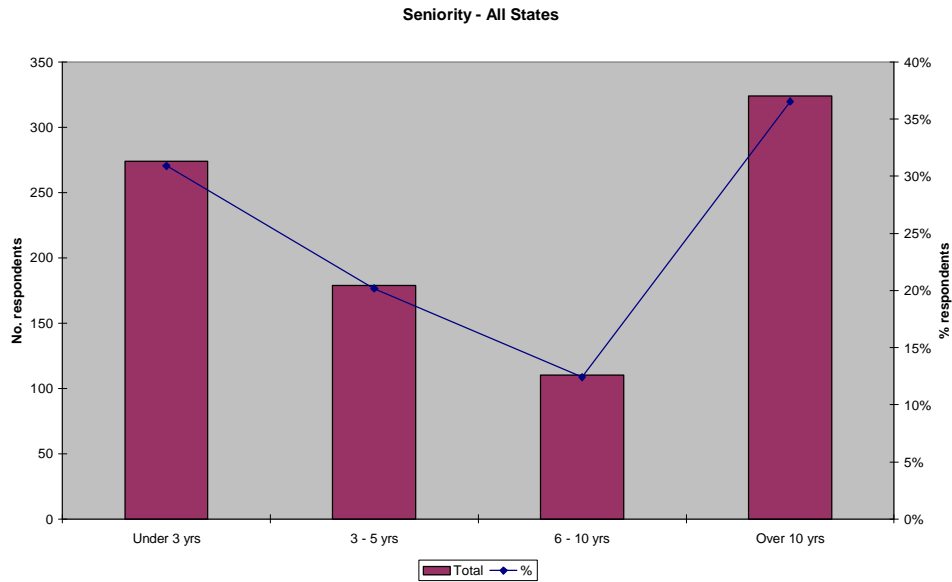
**Figure 1.2**



**Table 1.3**

Seniority (all states combined)	Total	%
Under 3 yrs	274	31%
3 - 5 yrs	179	20%
6 - 10 yrs	110	12%
Over 10 yrs	324	37%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 1.3**



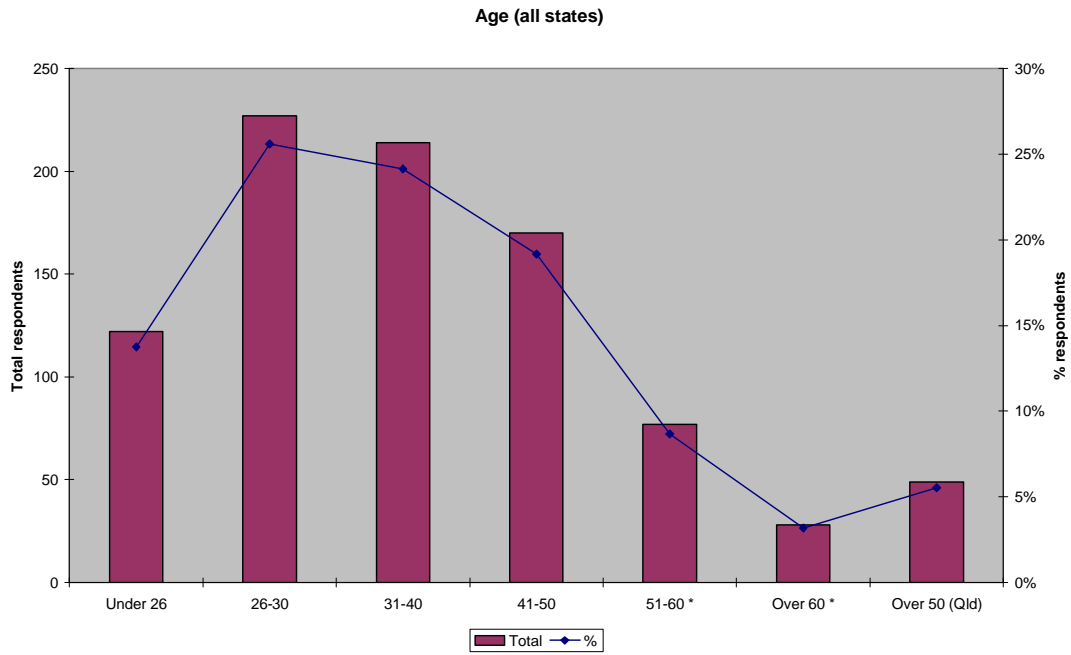
2. How old are you?

**Table 1.4**

Age	Total	%
Under 26	122	14%
26-30	227	26%
31-40	214	24%
41-50	170	19%
51-60 *	77	9%
Over 60 *	28	3%
Over 50 (Qld)	49	6%
<b>Total</b>	<b>887</b>	<b>100%</b>

\* Not including Queensland

**Figure 1.4**

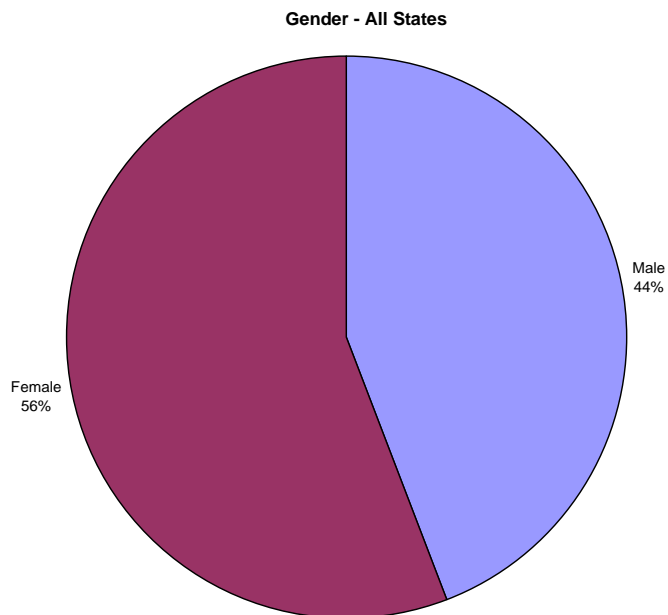


3. Are you...?

**Table 1.5**

Gender	Total	%
Male	391	44%
Female	496	56%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 1.5**



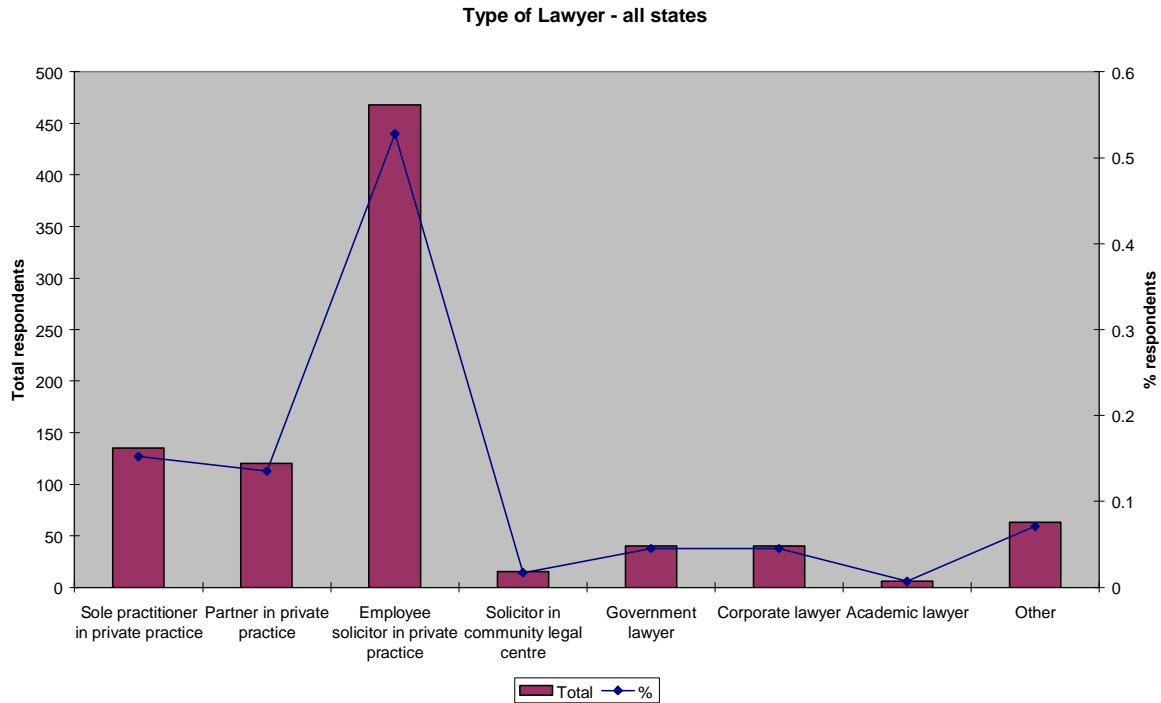
**Section 2 - About your job**

1. What is your position?

**Table 2.1**

Type Of Lawyer	Total	%
Sole practitioner in private practice	135	15%
Partner in private practice	120	14%
Employee solicitor in private practice	468	53%
Solicitor in community legal centre	15	2%
Government lawyer	40	5%
Corporate lawyer	40	5%
Academic lawyer	6	1%
Other	63	7%
<b>Total</b>	<b>887</b>	<b>100%</b>

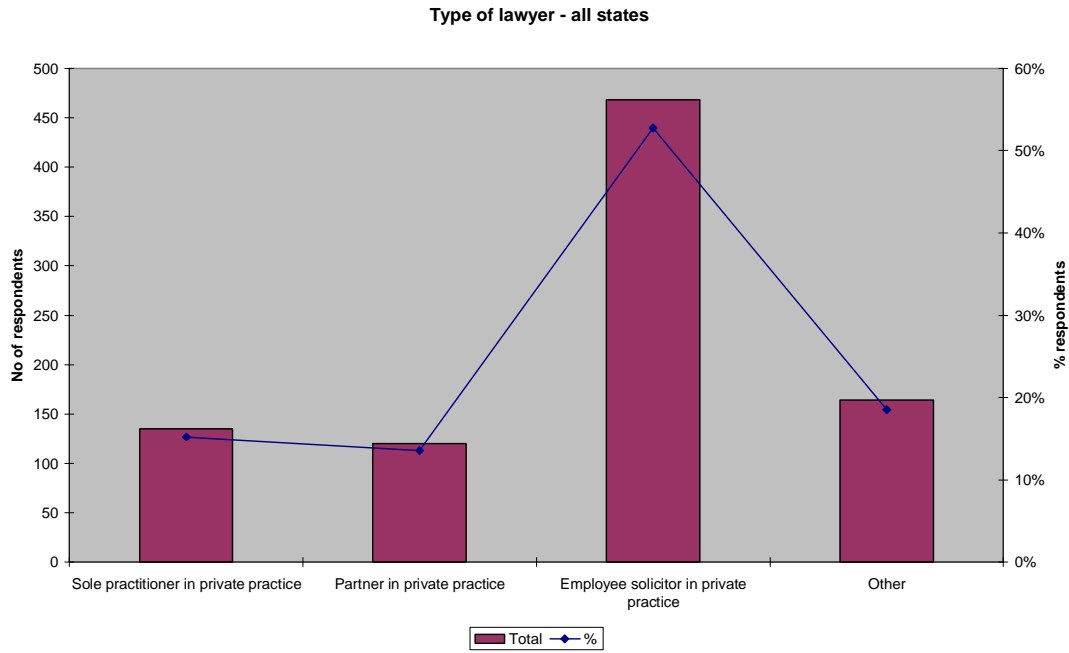
**Figure 2.1**



**Table 2.2**

Type of Lawyer (reduced sets)	Total	%
Sole practitioner in private practice	135	15%
Partner in private practice	120	14%
Employee solicitor in private practice	468	53%
Other	164	18%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 2.2**

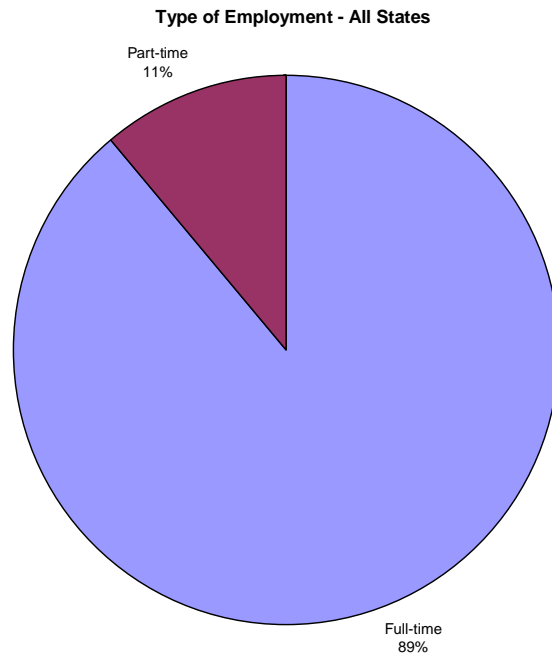


2. Do you work...?

**Table 2.3**

	<b>Total</b>	<b>%</b>
Full-time	788	89%
Part-time	99	11%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 2.3**

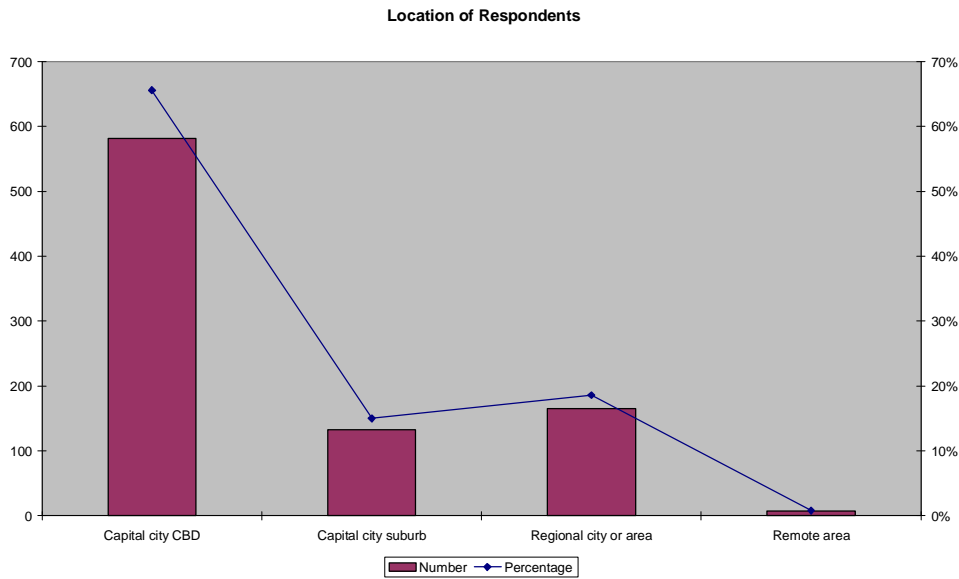


3. Where is your office located?

**Table 2.4**

<b>Geographic location</b>	<b>Total</b>	<b>%</b>
Capital city CBD	582	66%
Capital city suburb	133	15%
Regional city or area	165	19%
Remote area	7	1%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 2.4**





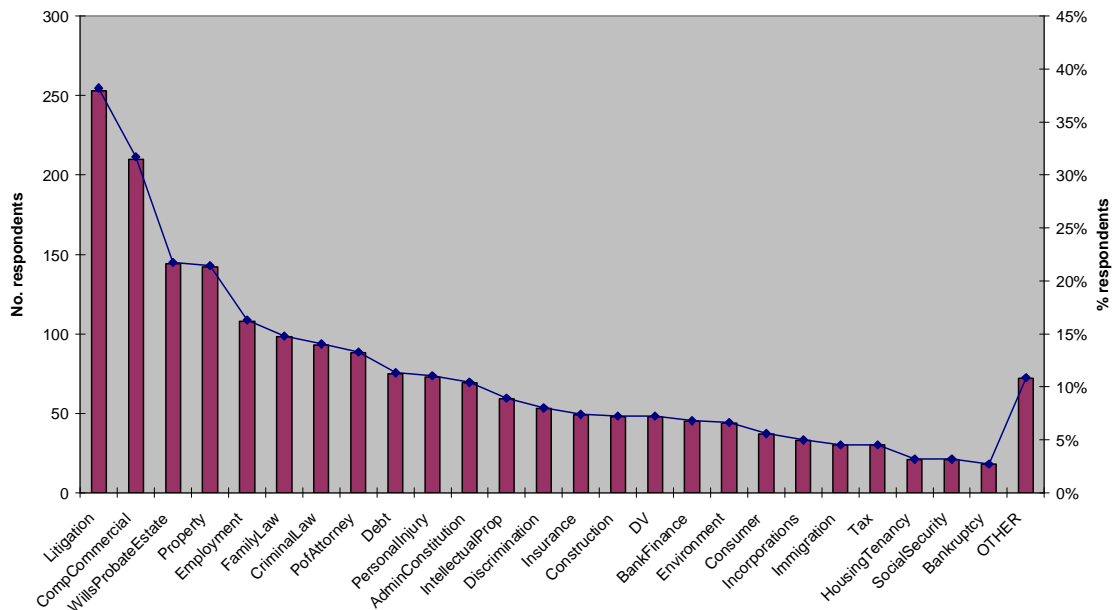
4. In which area(s) do you practice?

**Table 2.5**

Main areas of practice (All States bar Qld)	Number	%
Litigation	253	38%
Company & Commercial	210	32%
WillsProbateEstate	144	22%
Property	142	21%
Employment	108	16%
FamilyLaw	98	15%
CriminalLaw	93	14%
PofAttorney	88	13%
Debt	75	11%
PersonalInjury	73	11%
AdminConstitution	69	10%
IntellectualProp	59	9%
Discrimination	53	8%
Insurance	49	7%
Construction	48	7%
DV	48	7%
BankFinance	45	7%
Environment	44	7%
Consumer	37	6%
Incorporations	33	5%
Immigration	30	5%
Tax	30	5%
HousingTenancy	21	3%
SocialSecurity	21	3%
Bankruptcy	18	3%
Other	72	11%
<b>Total</b>	<b>662</b>	<b>100%</b>

**Figure 2.5**

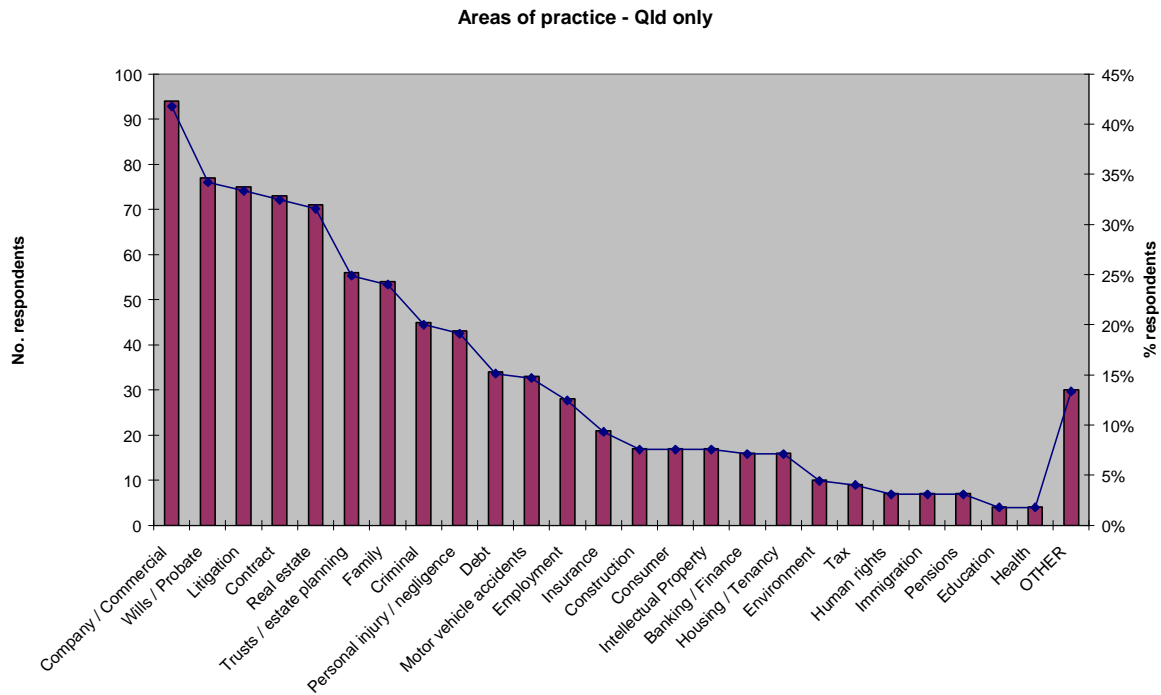
**Main areas of law; all states bar Qld**



**Table 2.6**

Main areas of practice (Qld only)	Count	%
Company / Commercial	94	42%
Wills / Probate	77	34%
Litigation	75	33%
Contract	73	32%
Real estate	71	32%
Trusts / estate planning	56	25%
Family	54	24%
Criminal	45	20%
Personal injury / negligence	43	19%
Debt	34	15%
Motor vehicle accidents	33	15%
Employment	28	12%
Insurance	21	9%
Construction	17	8%
Consumer	17	8%
Intellectual Property	17	8%
Banking / Finance	16	7%
Housing / Tenancy	16	7%
Environment	10	4%
Tax	9	4%
Human rights	7	3%
Immigration	7	3%
Pensions	7	3%
Education	4	2%
Health	4	2%
Other	30	13%
<b>Total</b>	<b>225</b>	<b>100%</b>

**Figure 2.6**



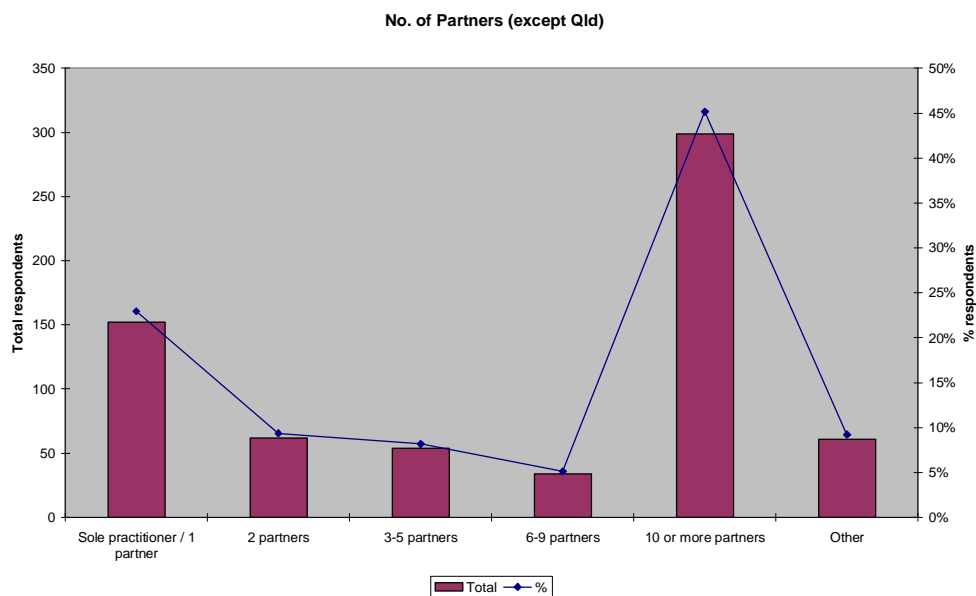
### **Section 3 - Brief details of your firm/office**

1. How many partners are there in your office?

**Table 3.1**

<b>No partners (excluding Qld)</b>	<b>No.</b>	<b>%</b>
Sole practitioner / 1 partner	152	23%
2 partners	62	9%
3-5 partners	54	8%
6-9 partners	34	5%
10 or more partners	299	45%
Other	61	9%
<b>Total</b>	<b>662</b>	<b>100%</b>

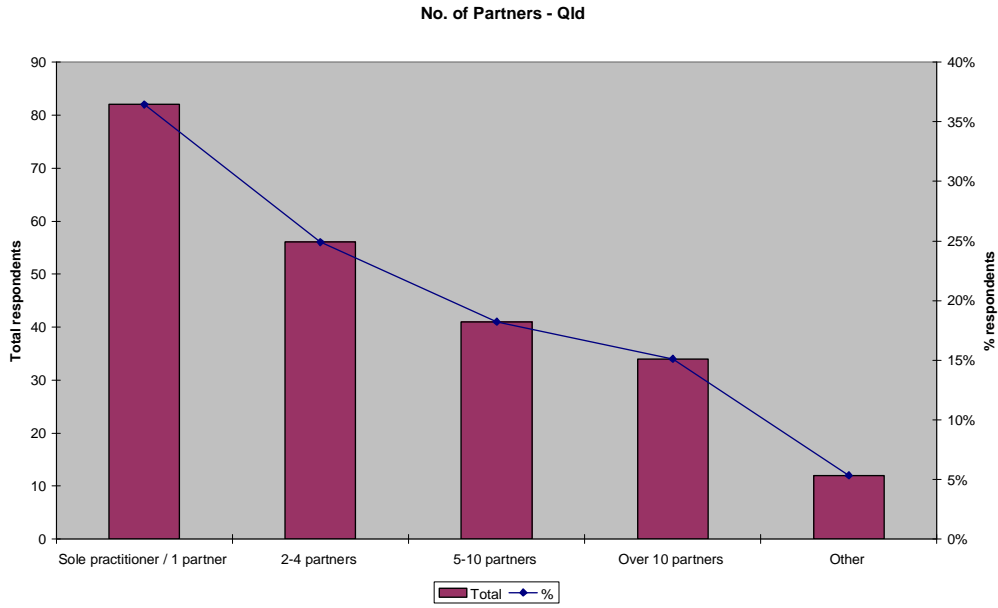
**Figure 3.1**



**Table 3.2**

<b>No. partners (Qld only)</b>	<b>No.</b>	<b>%</b>
Sole practitioner / 1 partner	82	36%
2-4 partners	56	25%
5-10 partners	41	18%
Over 10 partners	34	15%
Other	12	5%
<b>Total</b>	<b>225</b>	<b>100%</b>

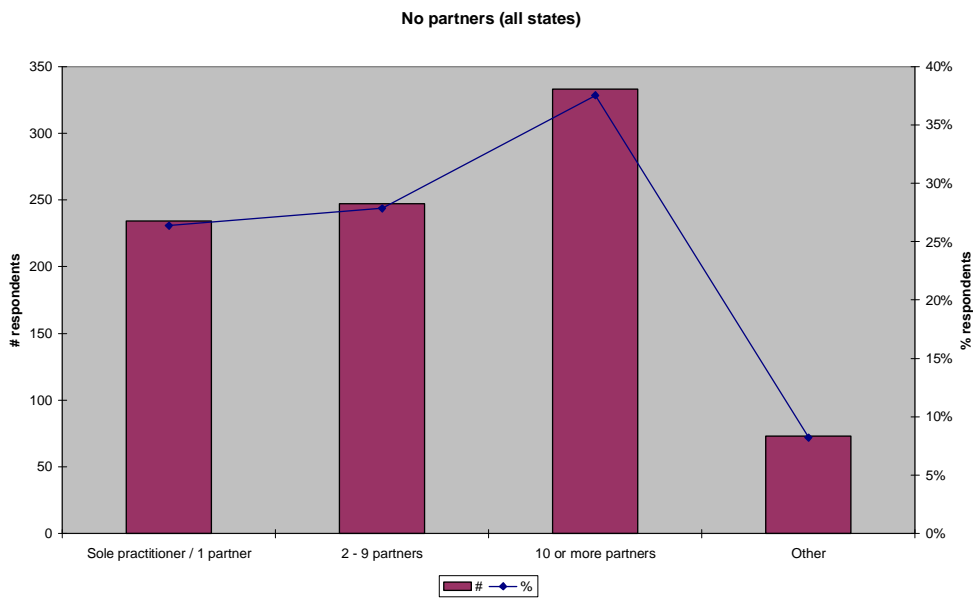
**Figure 3.2**



**Table 3.3**

No. partners (all states combined)	No.	%
Sole practitioner / 1 partner	234	26%
2 - 9 partners	247	28%
10 or more partners	333	38%
Other	73	8%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 3.3**

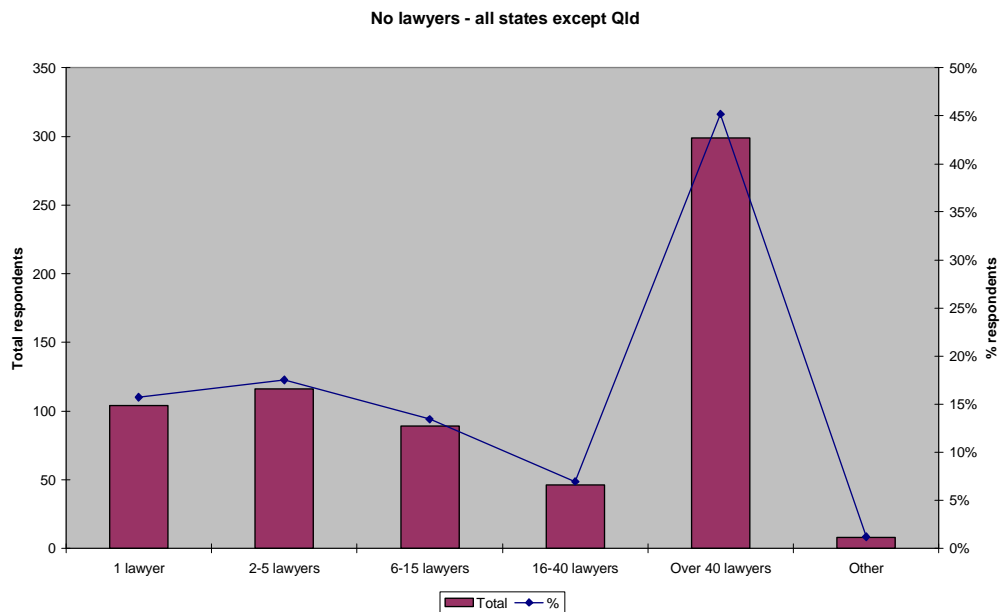


2. How many lawyers (including partners) are there in your office?

**Table 3.4**

No of Lawyers (all states bar Qld) <sup>33</sup>	Total	%
1 lawyer	104	16%
2-5 lawyers	116	18%
6-15 lawyers	89	13%
16-40 lawyers	46	7%
Over 40 lawyers	299	45%
Other	8	1%
<b>Total</b>	<b>662</b>	<b>100%</b>

**Figure 3.4**

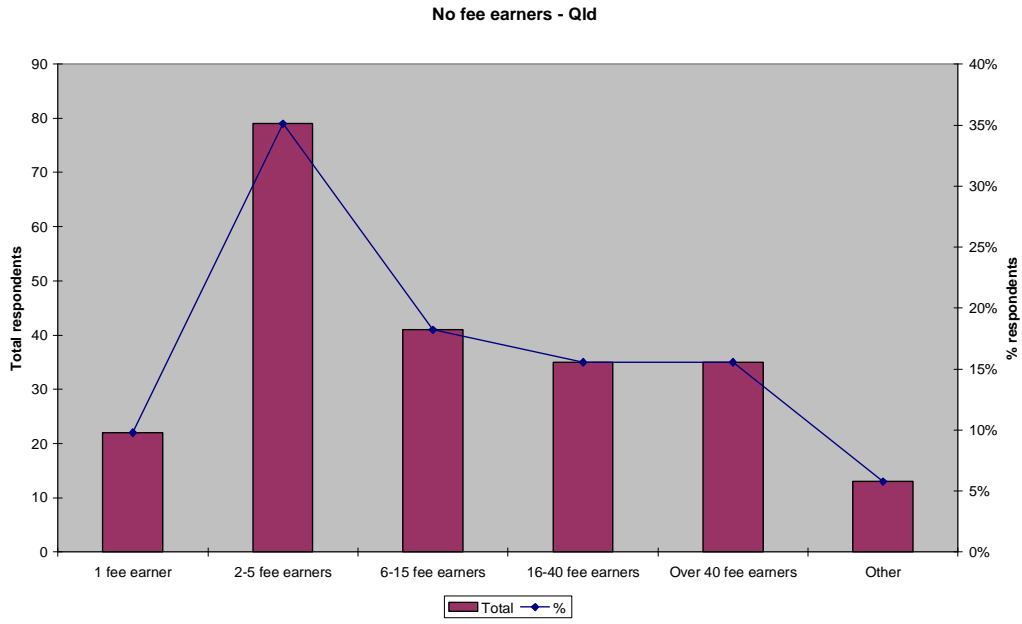


**Table 3.5**

No of fee-earners (Qld only)	Total	%
1 fee earner	22	10%
2-5 fee earners	79	35%
6-15 fee earners	41	18%
16-40 fee earners	35	16%
Over 40 fee earners	35	16%
Other	13	6%
<b>Total</b>	<b>225</b>	<b>100%</b>

<sup>33</sup> In Queensland, the question asked about the number of fee-earners.

**Figure 3.5**

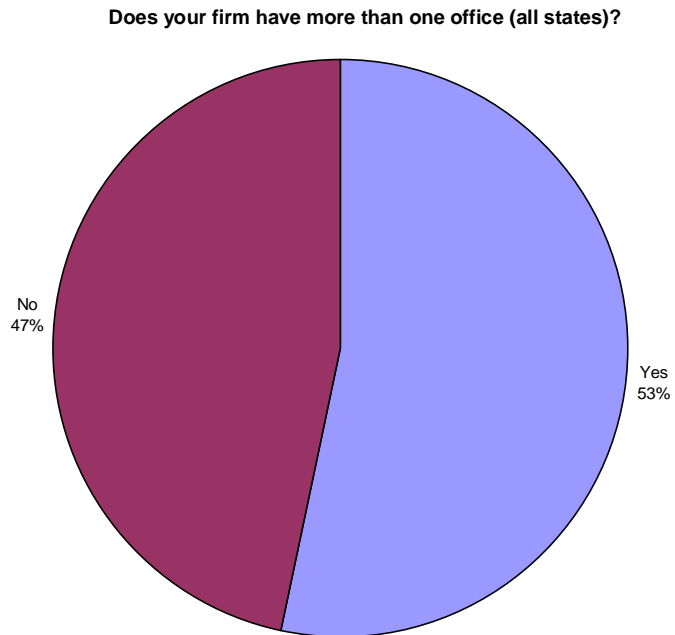


3. Does your firm have more than one office?

**Table 3.6**

	<b>Total</b>	<b>%</b>
Yes	473	53%
No	414	47%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 3.6**

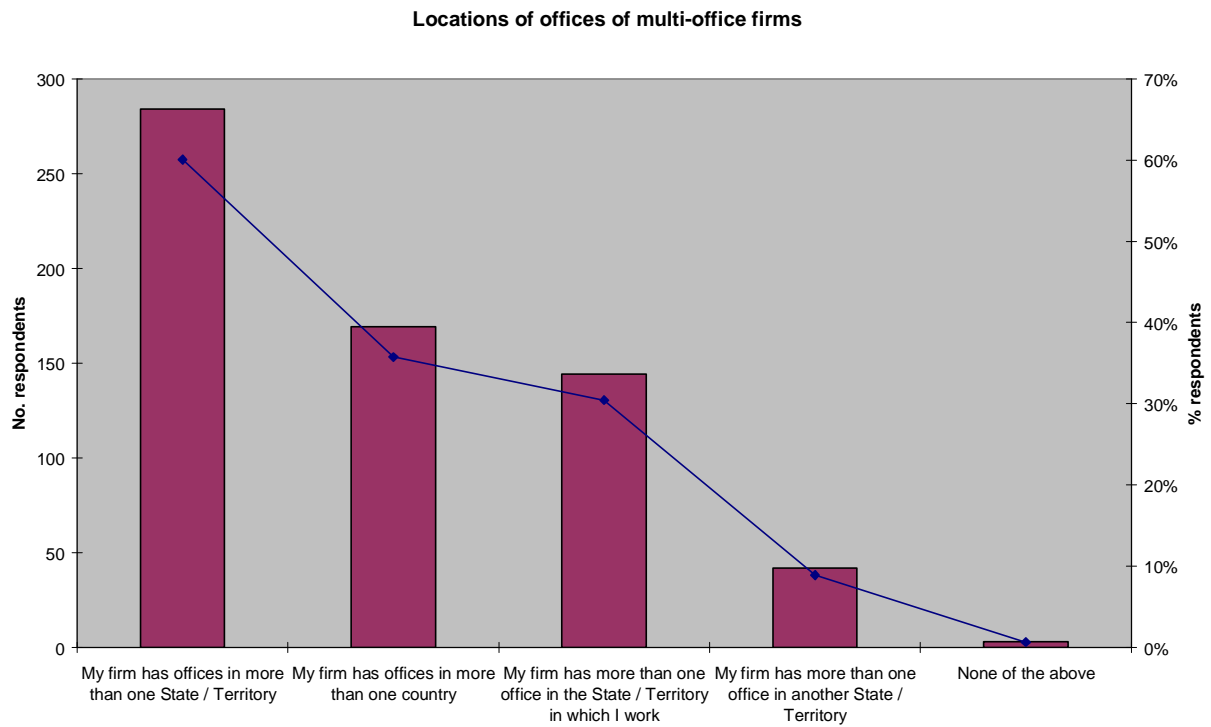


4. About your firm's offices...

**Table 3.7**

<b>Locations of offices of multi-office firms</b>	<b>No.</b>	<b>%</b>
My firm has offices in more than one State / Territory	284	60%
My firm has offices in more than one country	169	36%
My firm has more than one office in the State / Territory in which I work	144	30%
My firm has more than one office in another State / Territory	42	9%
None of the above	3	1%
<b>Total</b>	<b>473</b>	<b>100%</b>

**Figure 3.7**



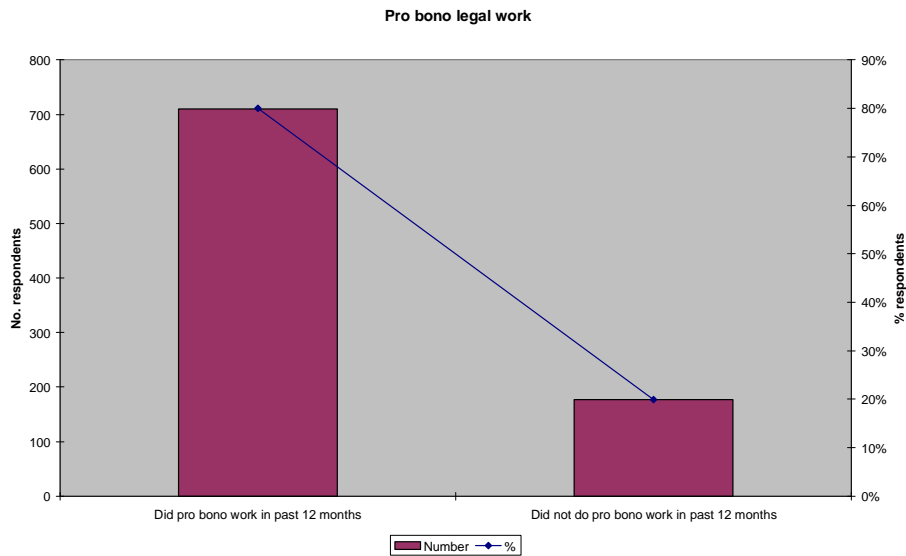
## Section 4 - Your Participation

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

**Table 4.1**

Done PB?	Total	%
Did pro bono legal work in past 12 months	710	80%
Did not do pro bono legal work in past 12 months	177	20%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 4.1**





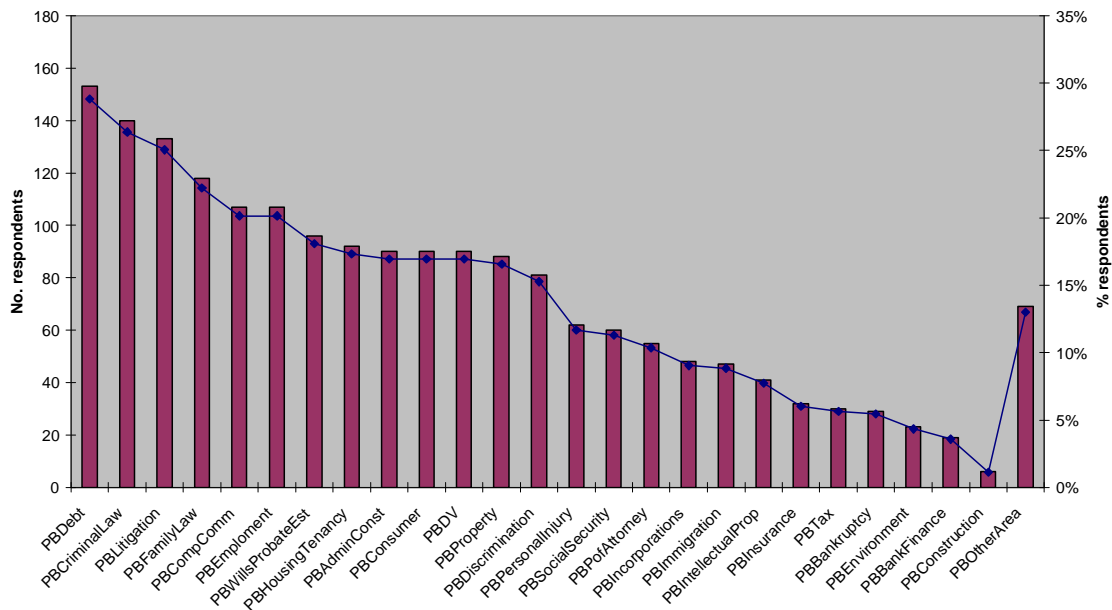
2. In which of the following areas of law have you done pro bono legal work in the last 12 months?

**Table 4.2**

Areas of law for pro bono legal work (all states except Qld)	Total	%
PBDebt	153	29%
PBCriminalLaw	140	26%
PBLitigation	133	25%
PBFamilyLaw	118	22%
PBCompComm	107	20%
PBEmploment	107	20%
PBWillsProbateEst	96	18%
PBHousingTenancy	92	17%
PBAdminConst	90	17%
PBConsumer	90	17%
PBDV	90	17%
PBProperty	88	17%
PBDiscrimination	81	15%
PBPersonalInjury	62	12%
PBSocialSecurity	60	11%
PBPofAttorney	55	10%
PBIncorporations	48	9%
PBImmigration	47	9%
PBIntellectualProp	41	8%
PBInsurance	32	6%
PBTax	30	6%
PBBankruptcy	29	5%
PBEnvironment	23	4%
PBBankFinance	19	4%
PBConstruction	6	1%
PBOtherArea	69	13%
<b>Total</b>	<b>531</b>	<b>100%</b>

**Figure 4.2**

**Areas of law of pro bono practice (all states bar Qld)**

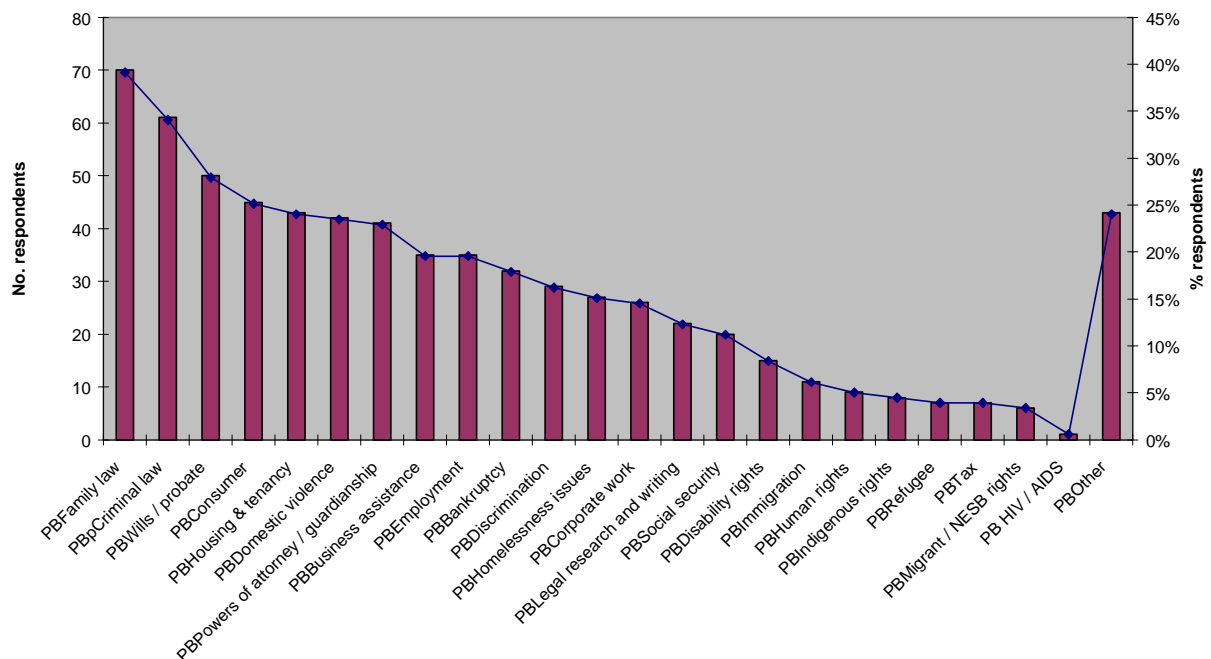


**Table 4.3**

Areas of law for pro bono legal work (Qld only)	Total	%
PBFamily law	70	39%
PBpCriminal law	61	34%
PBWills / probate	50	28%
PBConsumer	45	25%
PBHousing & tenancy	43	24%
PBDomestic violence	42	23%
PBPowers of attorney / guardianship	41	23%
PBBusiness assistance	35	20%
PBEmployment	35	20%
PBBankruptcy	32	18%
PBDiscrimination	29	16%
PBHomelessness issues	27	15%
PBCorporate work	26	15%
PBLegal research and writing	22	12%
PBSocial security	20	11%
PBDisability rights	15	8%
PBImmigration	11	6%
PBHuman rights	9	5%
PBIndigenous rights	8	4%
PBRefugee	7	4%
PBTax	7	4%
PBMigrant / NESB rights	6	3%
PB HIV / AIDS	1	1%
PBOther	43	24%
<b>Total</b>	<b>179</b>	<b>100%</b>

**Figure 4.3**

**Areas of law of pro bono practice (Qld only)**

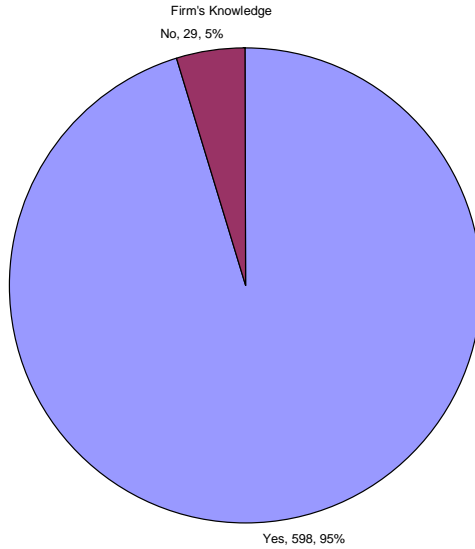


3. Is your pro bono legal work undertaken with your firm's knowledge?

**Table 4.4**

Firms' Knowledge	Count	%
Yes	598	95%
No	29	5%
<b>Total</b>	<b>627</b>	<b>100%</b>

**Figure 4.4**

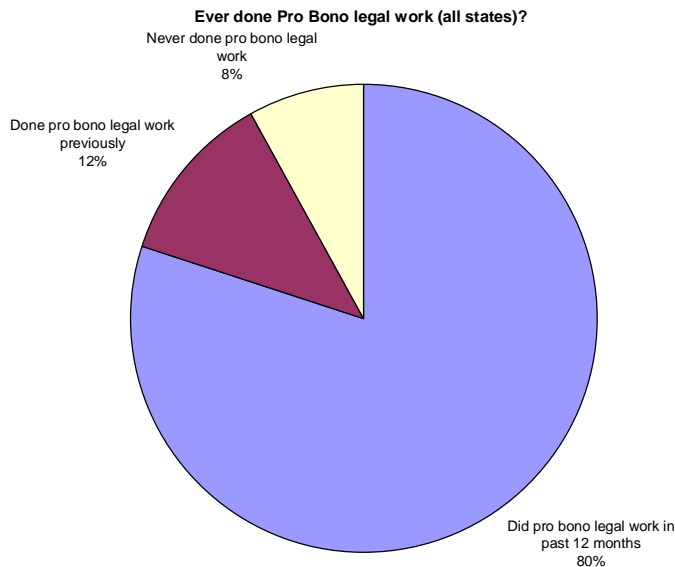


4. Have you ever done pro bono legal work?

**Table 4.5**

Ever Done PB?	Total	%
Did pro bono legal work in past 12 months	710	80%
Done pro bono legal work previously	105	12%
Never done pro bono legal work	72	8%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 4.5**



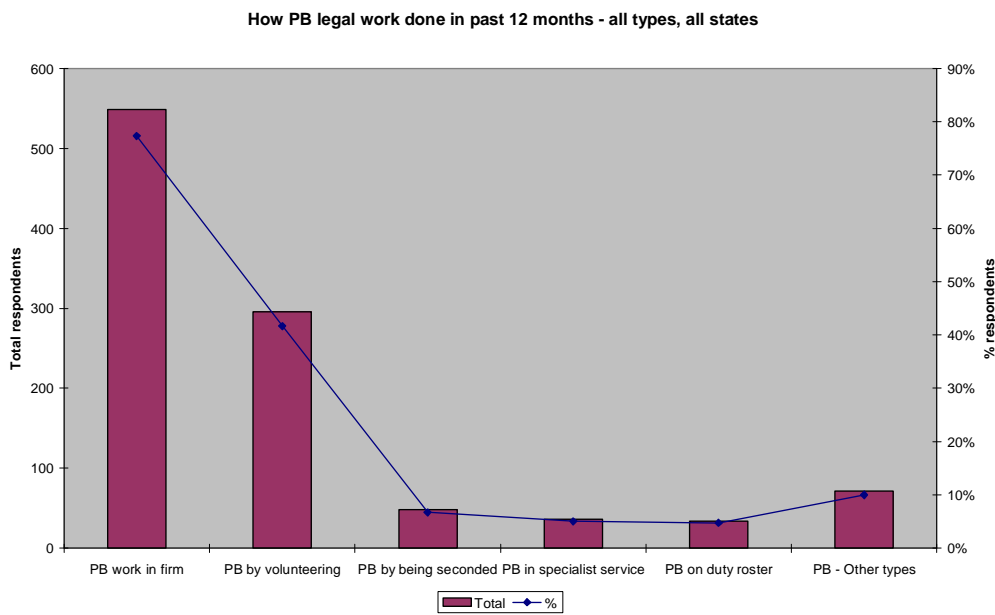
**Section 5 - Types of pro bono legal work**

1. How have you done pro bono legal work in the past 12 months?

**Table 5.1**

How PB work done in past 12 months	Total	%
PB work in firm	549	77%
PB by volunteering	296	42%
PB by being seconded	48	7%
PB in specialist service	36	5%
PB on duty roster	34	5%
Other types	71	10%
<b>Total</b>	<b>710</b>	<b>100%</b>

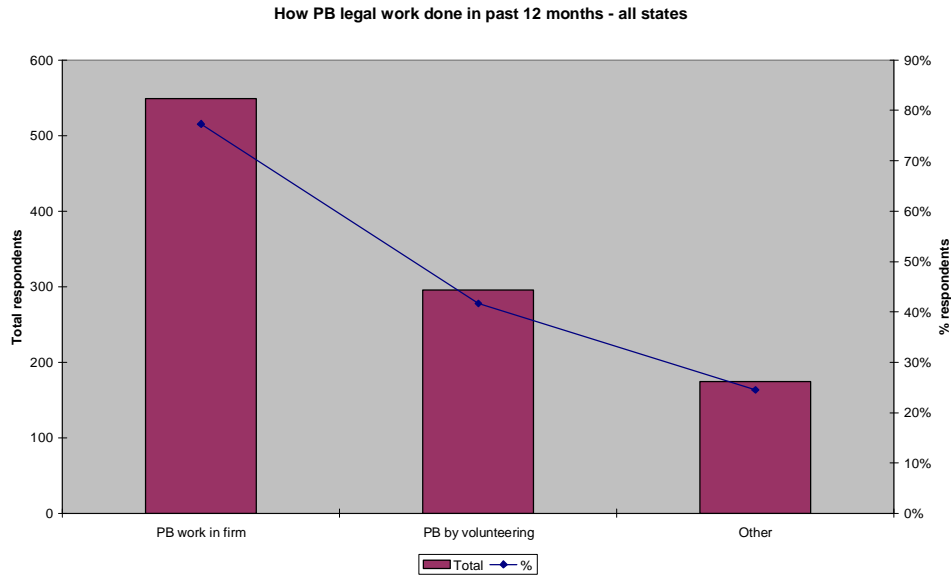
**Figure 5.1**



**Table 5.2**

How Pro Bono legal work was done in past 12 mths	Total	%
PB work in firm	549	77%
PB by volunteering	296	42%
Other	174	25%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 5.2**

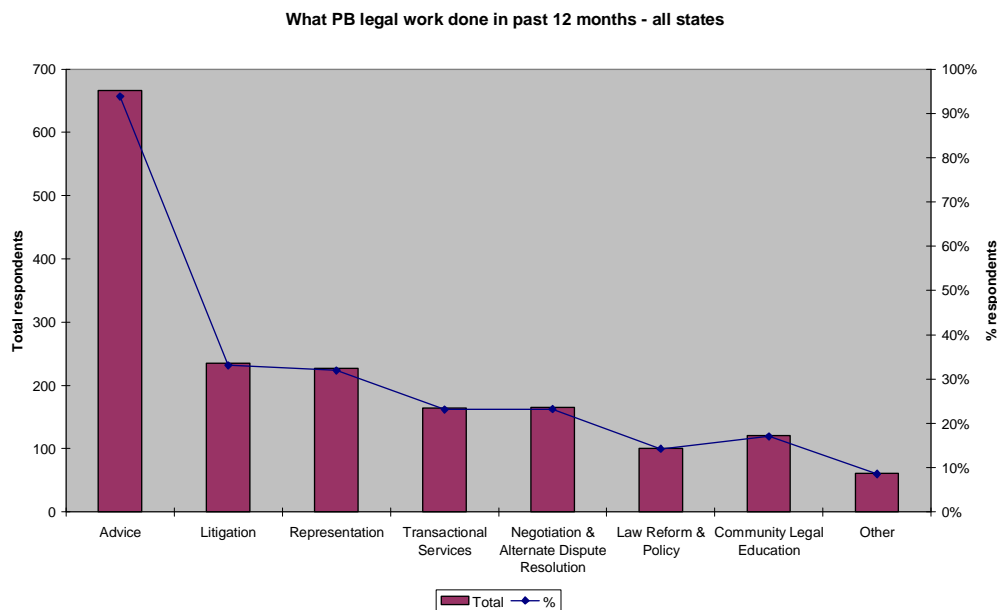


2. Which of the following pro bono legal work have you done in the past 12 months?

**Table 5.3**

What PB done in past 12 mths	Total	%
Advice	666	94%
Litigation	235	33%
Representation	227	32%
Transactional Services	164	23%
Negotiation & Alternate Dispute Resolution	165	23%
Law Reform & Policy	101	14%
Community Legal Education	121	17%
Other	61	9%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 5.3**

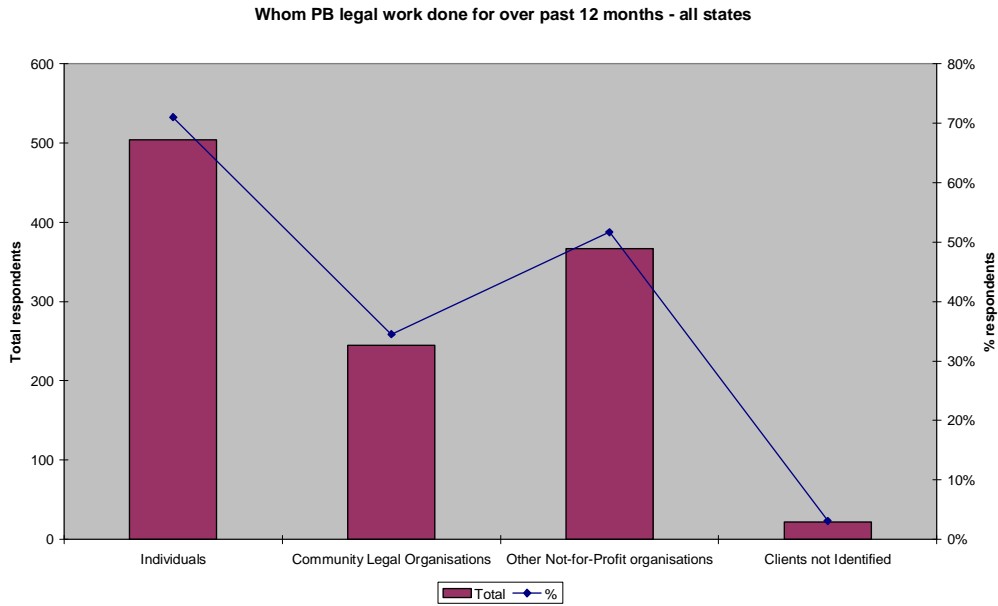


4. Please could you tell us for whom this pro bono legal work was done?

**Table 5.4**

<b>PB undertaken in past 12 mths, by client groups</b>	<b>Total</b>	<b>%</b>
Individuals	504	71%
Community Legal Organisations	245	35%
Other Not-for-Profit organisations	367	52%
Clients not Identified	22	3%
<b>Total</b>	<b>710</b>	<b>100%</b>

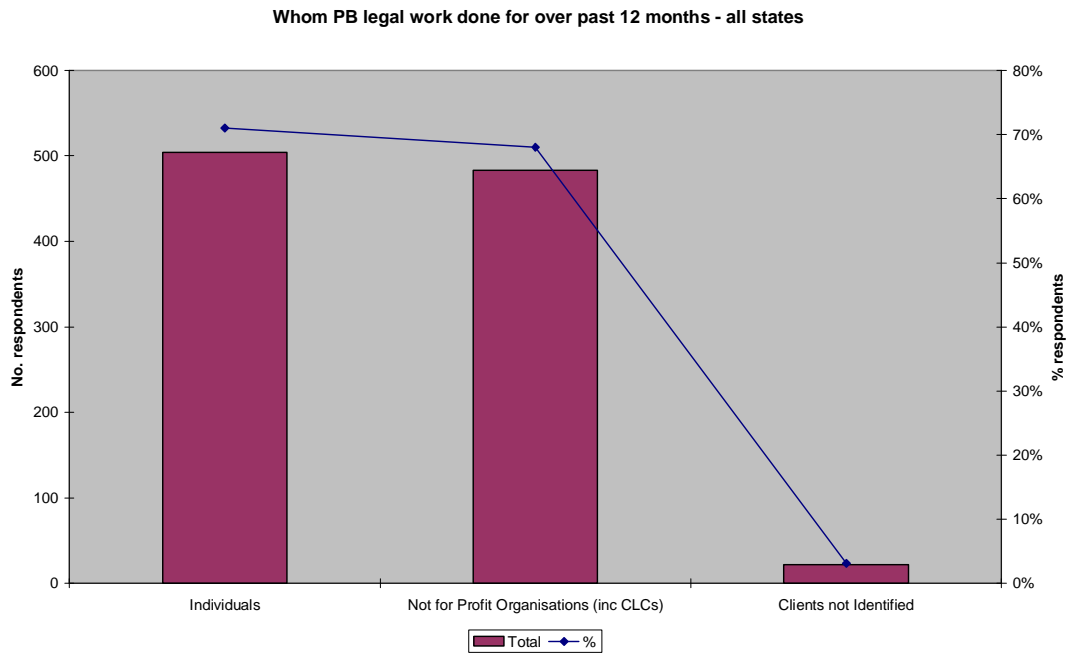
**Figure 5.4**



**Table 5.5**

<b>Pro bono legal work undertaken, by 2 client groups</b>	<b>Total</b>	<b>%</b>
Individuals	504	71%
Not for Profit Organisations (inc CLCs)	483	68%
Clients not Identified	22	3%
<b>Total</b>	<b>710</b>	<b>100%</b>

Figure 5.5



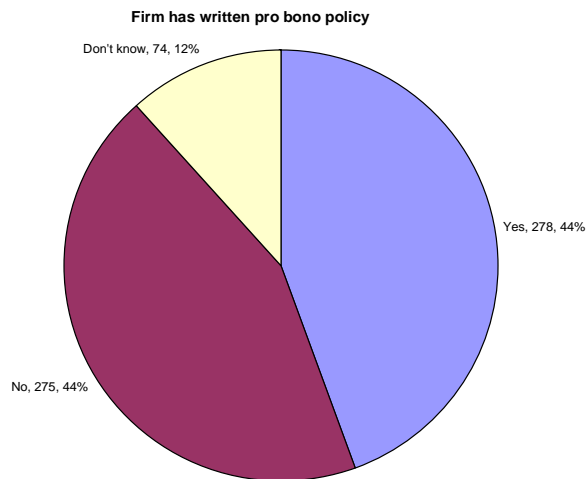
## Section 6 - Practice Issues

1. Does your firm have a written pro bono policy?

**Table 6.1**

	<b>Total</b>	<b>%</b>
Yes	278	44%
No	275	44%
Don't know	74	12%
<b>Total</b>	<b>627</b>	<b>100%</b>

**Figure 6.1**

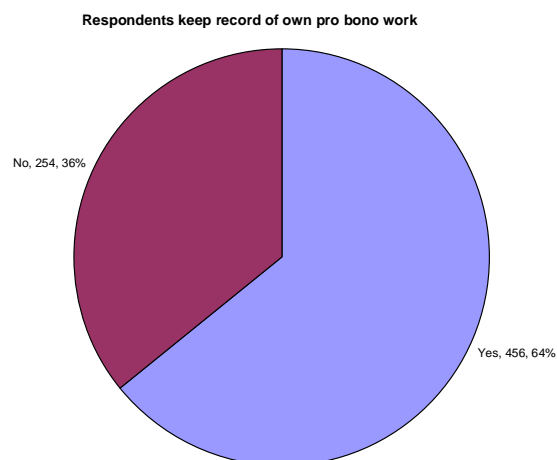


2. Do you keep any record of the pro bono work that you are doing?

**Table 6.2**

	<b>#</b>	<b>%</b>
Yes	456	64%
No	254	36%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 6.2**



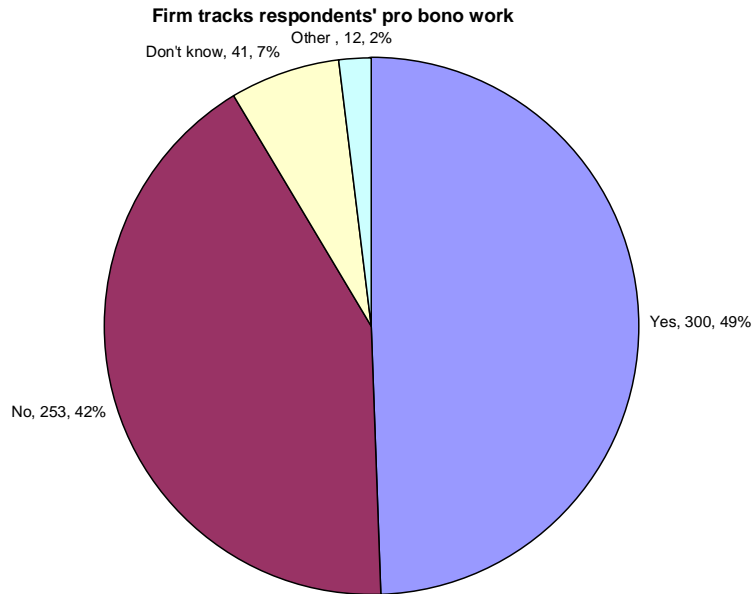


3. Does your firm track how much pro bono work you do?

**Table 6.3**

	<b>Total</b>	<b>%</b>
Yes	300	50%
No	253	42%
Don't know	41	7%
Other	12	2%
<b>Total</b>	<b>606</b>	<b>100%</b>

**Figure 6.3**



4. Does your firm take your pro bono legal work into account (in a positive manner)?

- In your performance appraisal?
- When considering you for promotion or advancement?
- In your salary reviews?
- In meeting billable hours targets?
- In meeting financial targets?

**Table 6.4**

<b>PB Work taken into account in:</b>	<b>Yes</b>		<b>No</b>		<b>Don't know</b>		<b>N/A</b>		<b>Total</b>	
	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>	<b>#</b>	<b>%</b>
Performance Appraisal	254	42%	155	26%	93	16%	96	16%	598	100%
Billable Hours Target	228	38%	209	35%	51	9%	110	18%	598	100%
Financial Targets	166	28%	238	40%	91	15%	103	17%	598	100%
Promotion & Advancement	124	21%	189	32%	174	29%	111	19%	598	100%
Salary Review	98	16%	233	39%	156	26%	111	19%	598	100%

Figure 6.4

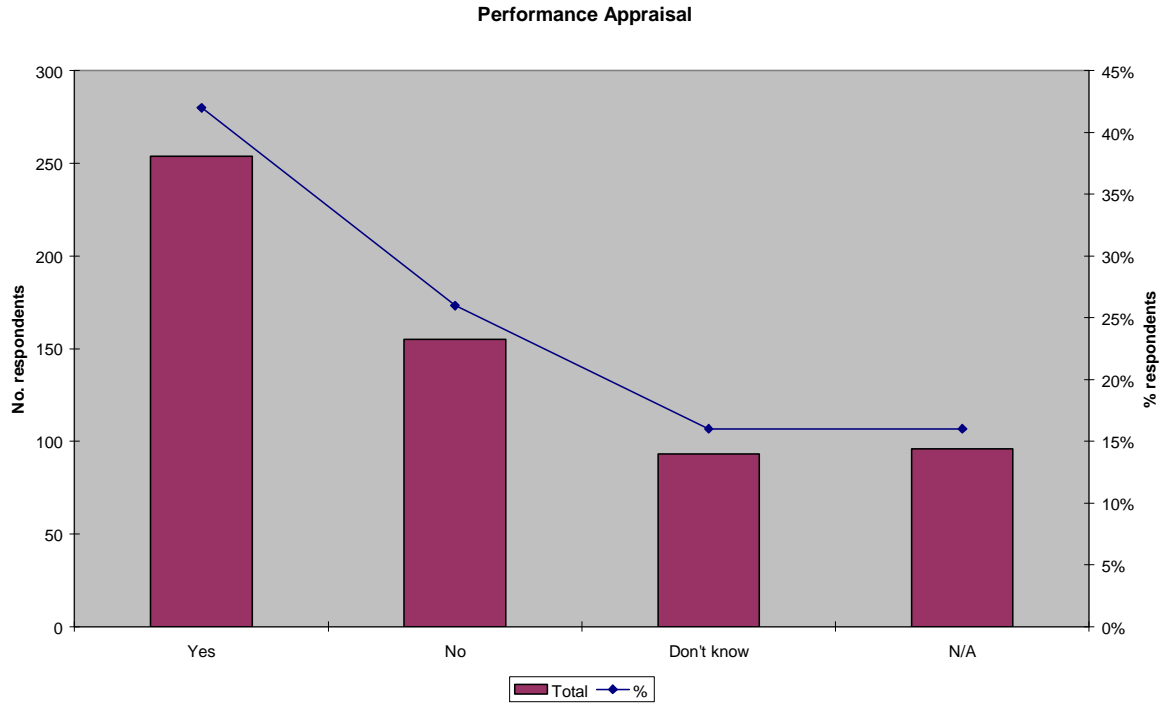


Figure 6.5

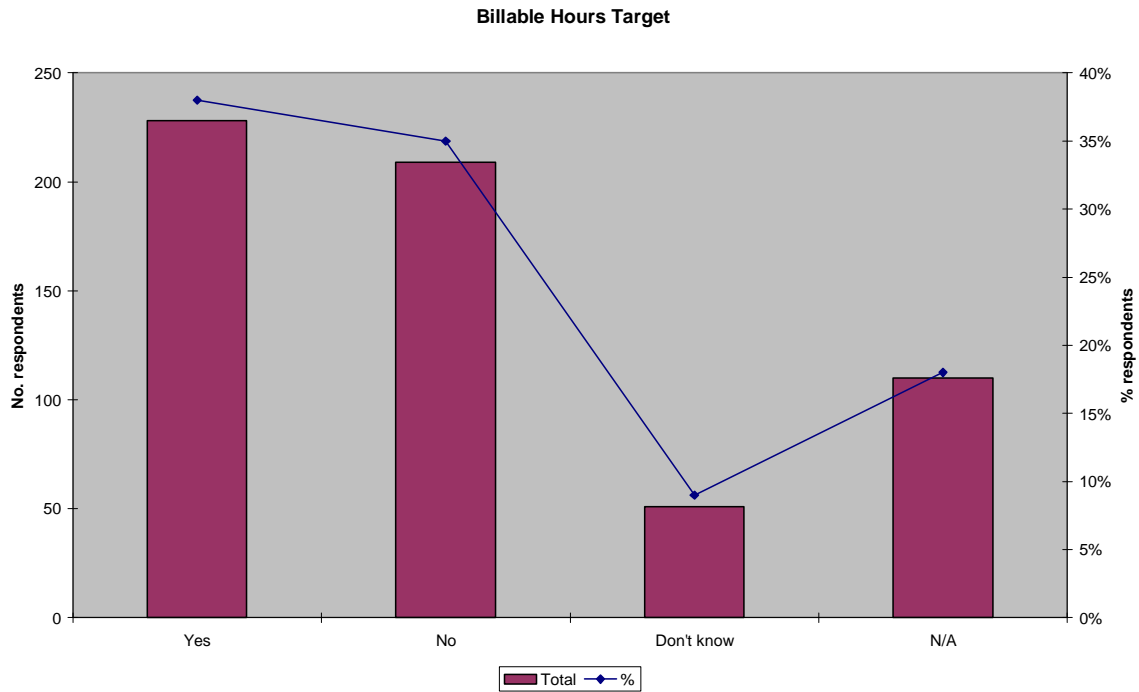


Figure 6.6

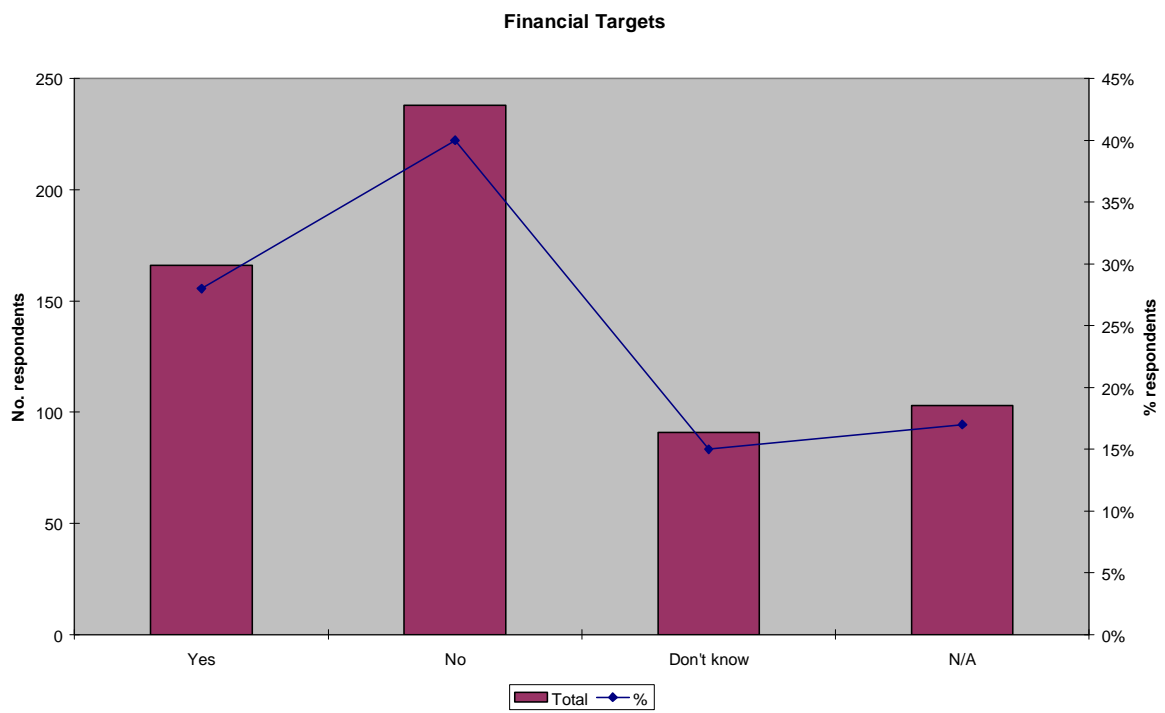


Figure 6.7

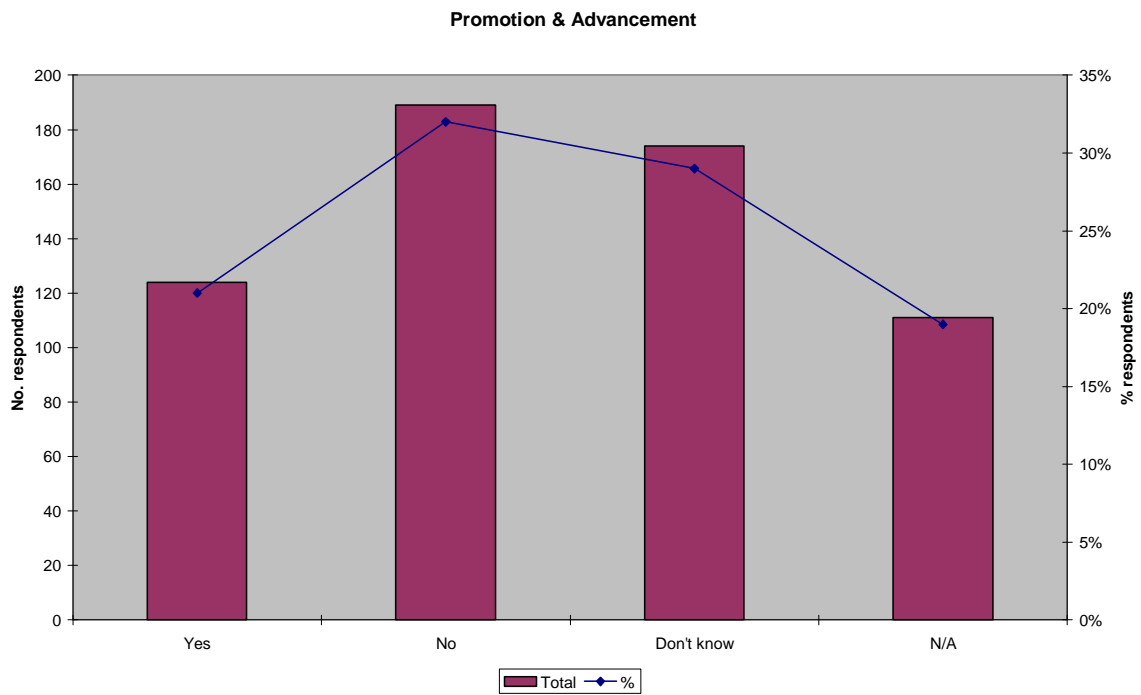
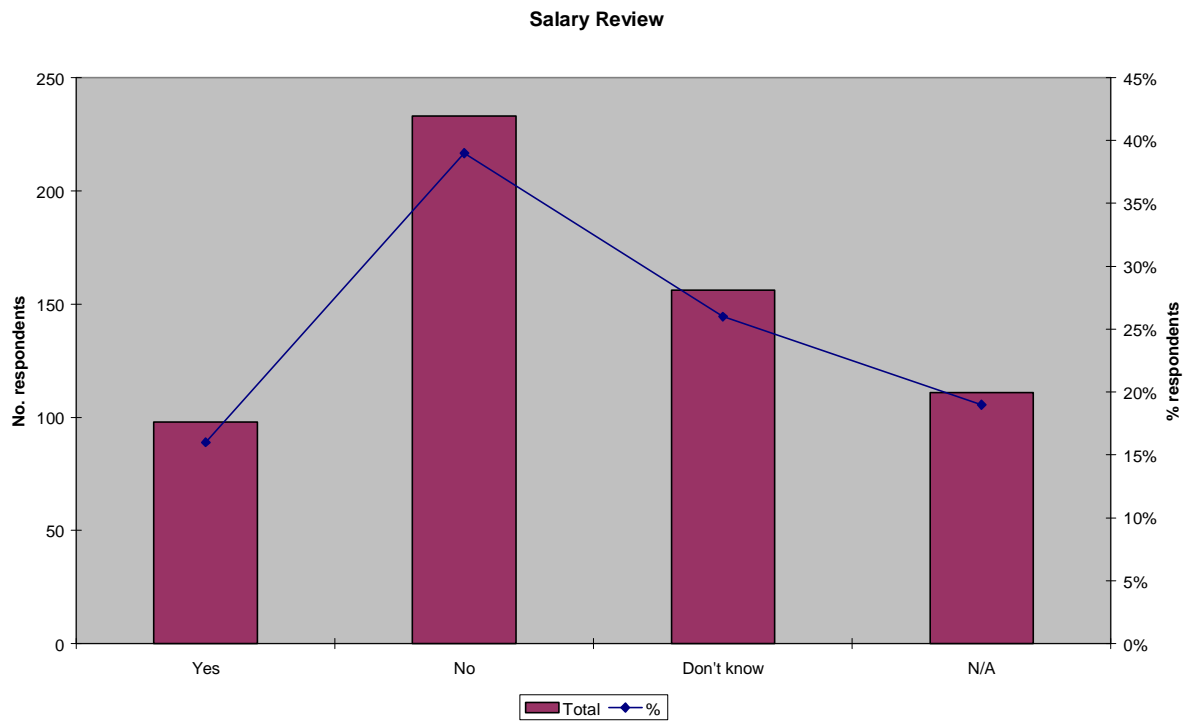


Figure 6.8



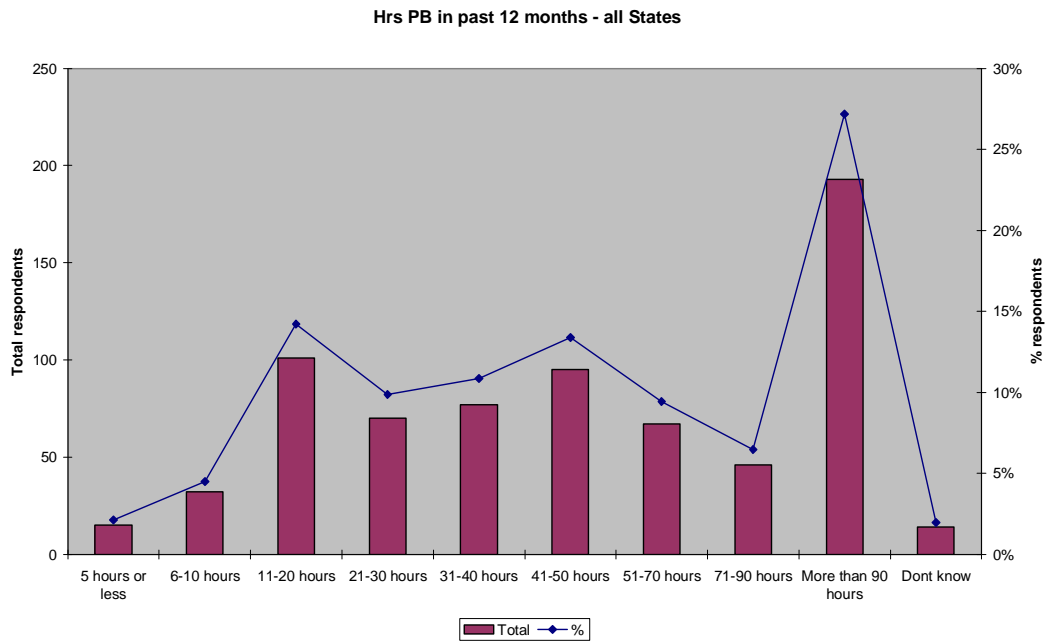
**Section 7 - Amount of pro bono work**

1. Can you estimate how many hours of pro bono legal work you have completed in the last 12 months?

**Table 7.1**

	<b>Total</b>	<b>%</b>
5 hours or less	15	2%
6-10 hours	32	5%
11-20 hours	101	14%
21-30 hours	70	10%
31-40 hours	77	11%
41-50 hours	95	13%
51-70 hours	67	9%
71-90 hours	46	6%
More than 90 hours	193	27%
Don't know	14	2%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 7.1**

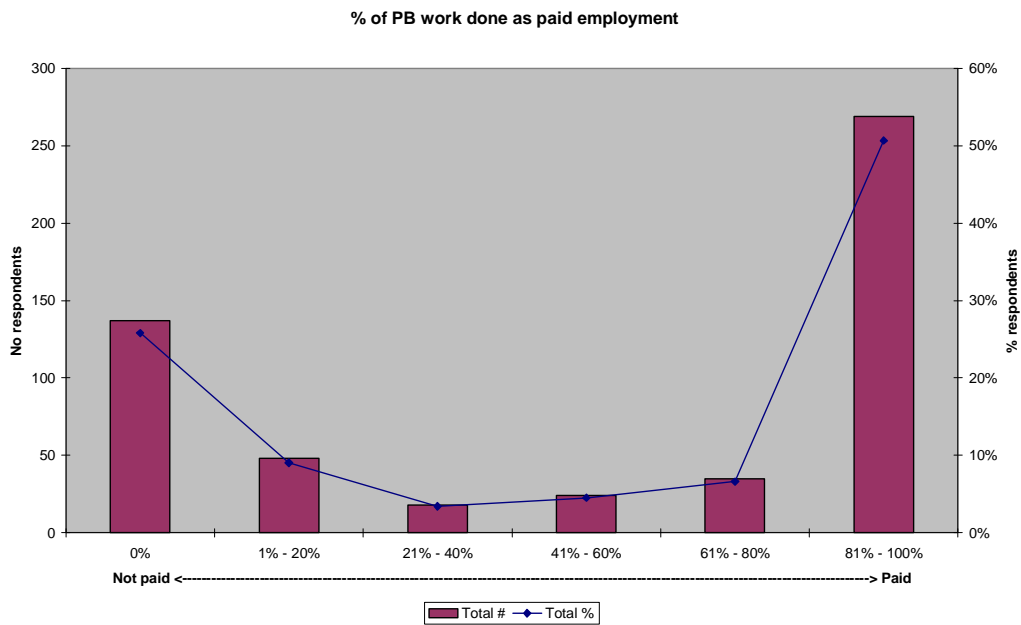


2. How much of this work was done as part of your paid employment?<sup>34</sup>

**Table 7.2**

<b>% pro bono work as part of paid employment?</b>	<b>#</b>	<b>%</b>
0%	137	26%
1% - 20%	48	9%
21% - 40%	18	3%
41% - 60%	24	5%
61% - 80%	35	7%
81% - 100%	269	51%
<b>Total</b>	<b>531</b>	<b>100%</b>

**Figure 7.2**

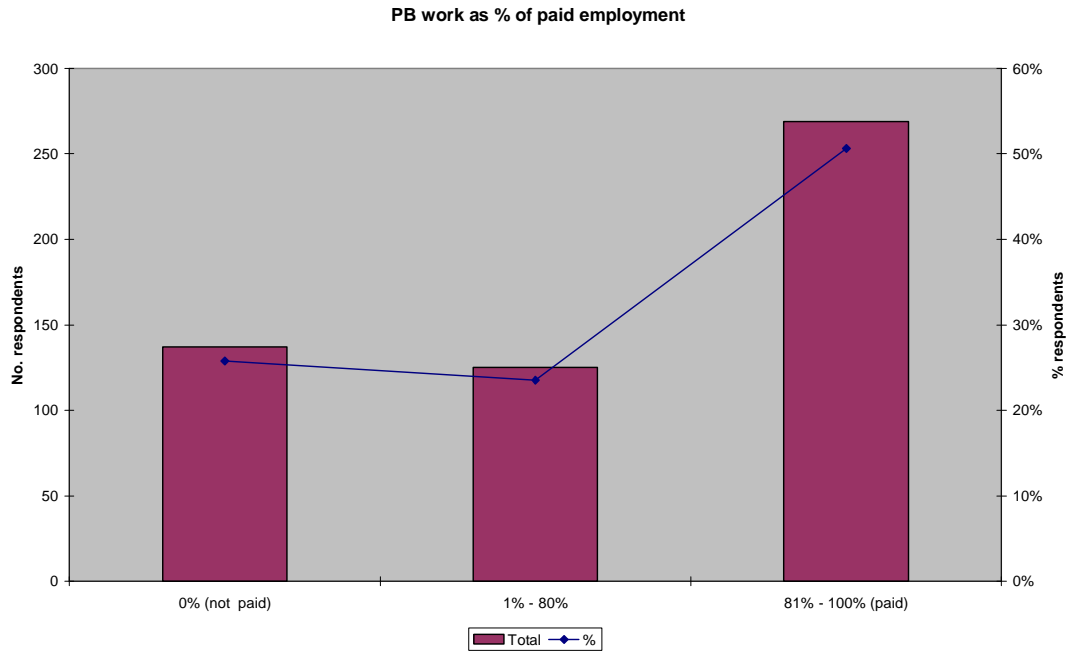


**Table 7.3**

	Total	%
0% (not paid)	137	26%
1% - 80%	125	24%
81% - 100% (paid)	269	51%
<b>Total</b>	<b>531</b>	<b>100%</b>

<sup>34</sup> Not asked for Queensland

**Figure 7.3**

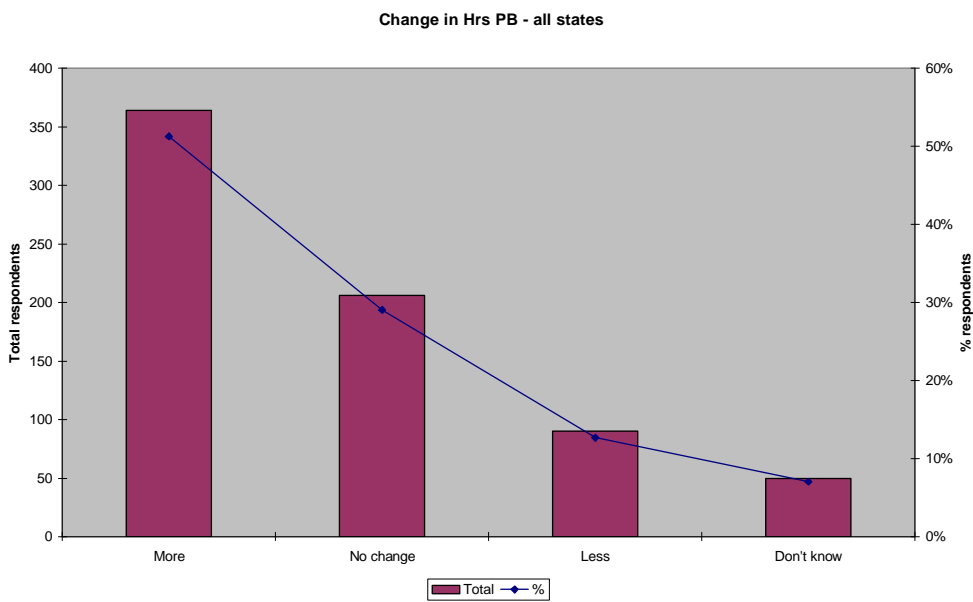


3. Have you spent more or less time in pro bono legal work in the past 12 months than in the previous 12 months?

**Table 7.4**

	<b>Total</b>	<b>%</b>
More	364	51%
No change	206	29%
Less	90	13%
Don't know	50	7%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 7.4**



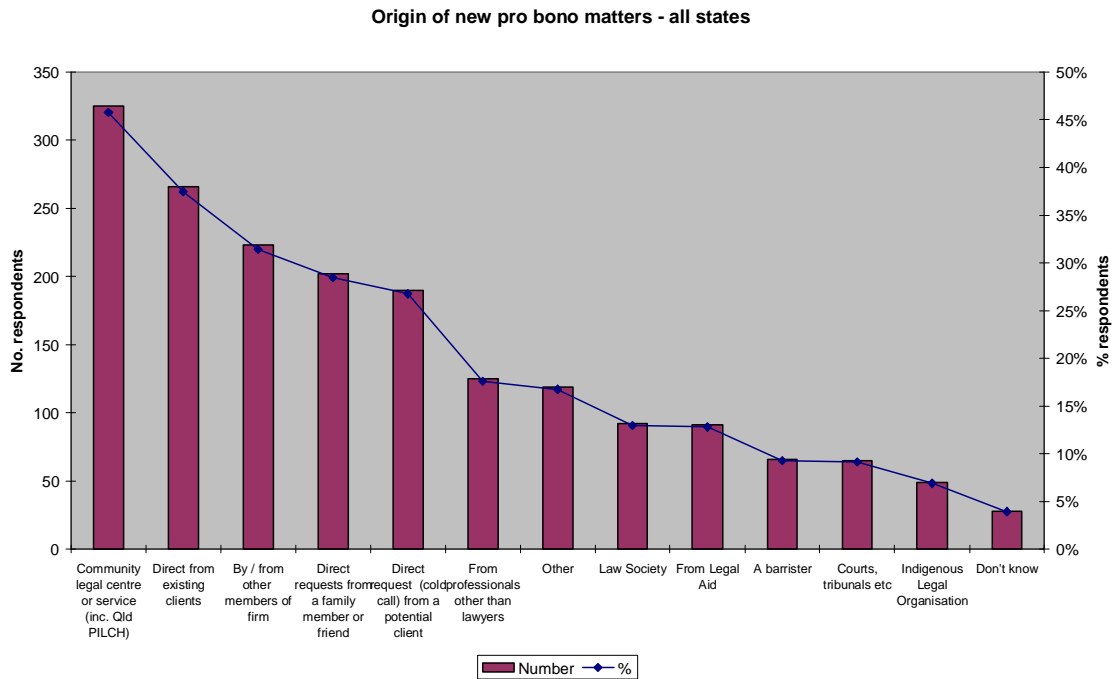
**Section 8 - Sources of pro bono work**

1. When you take on new pro bono matters, from where do those new matters originate?

**Table 8.1**

Origin of new Pro Bono matters	Number	%
Community legal centre or service (inc PILCH)	325	46%
Direct from existing clients	266	37%
By / from other members of firm	223	31%
Direct requests from a family member or friend	202	28%
Direct request (cold call) from a potential client	190	27%
From professionals other than lawyers	125	18%
Other	119	17%
Law Society	92	13%
From Legal Aid	91	13%
A barrister	66	9%
Courts, tribunals etc	65	9%
Indigenous Legal Organisation	49	7%
Don't know	28	4%
<b>Total</b>	<b>710</b>	<b>100%</b>

**Figure 8.2**





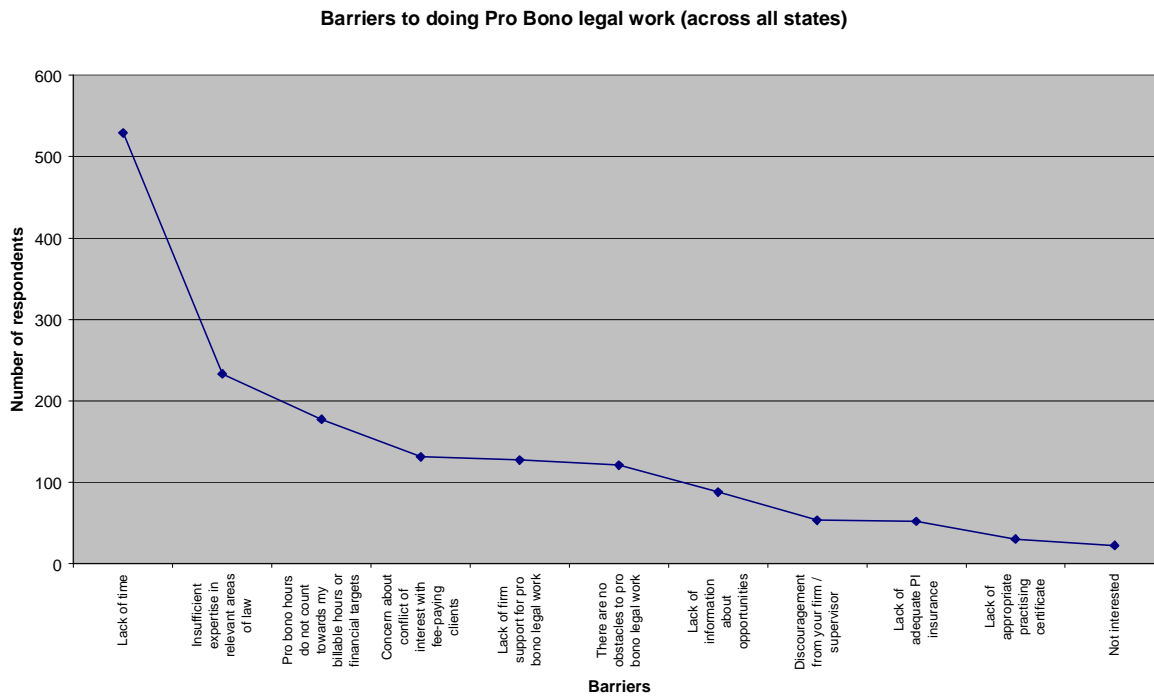
## Section 9 - Obstacles to & Encouragement for Pro Bono

1. What gets in the way of you doing pro bono legal work?

**Table 9.1**

<b>Obstacles to doing pro bono legal work (All States)</b>	<b>Total</b>	<b>%</b>
Lack of time	529	68%
Insufficient expertise in relevant areas of law	233	30%
Pro bono hours do not count towards my billable hours or financial targets	177	23%
Concern about conflict of interest with fee-paying clients	131	17%
Lack of firm support for pro bono legal work	127	16%
There are no obstacles to pro bono legal work	121	16%
Lack of information about opportunities	88	11%
Discouragement from your firm / supervisor	53	7%
Lack of adequate PI insurance	52	7%
Lack of appropriate practising certificate	30	4%
Not interested	22	3%
Other	72	9%
<b>Total</b>	<b>776</b>	<b>100%</b>

**Figure 9.1**

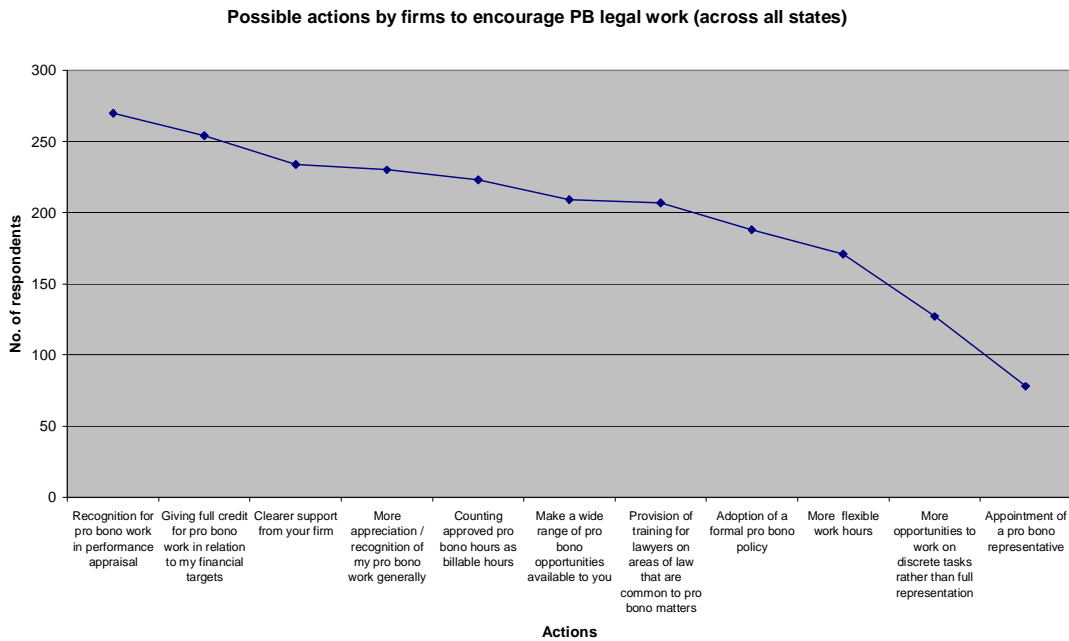


3. What actions could your firm take that would encourage you to do more pro bono?

**Table 9.2**

<b>Actions firms could take to encourage more pro bono legal work</b>	<b>Total</b>	<b>%</b>
Recognition for pro bono work in performance appraisal	270	34%
Giving full credit for pro bono work in relation to my financial targets	254	32%
Clearer support from your firm	234	30%
More appreciation / recognition of my pro bono work generally	230	29%
Counting approved pro bono hours as billable hours	223	28%
Make a wide range of pro bono opportunities available to you	209	26%
Provision of training for lawyers on areas of law that are common to pro bono matters	207	26%
Adoption of a formal pro bono policy	188	24%
More flexible work hours	171	22%
More opportunities to work on discrete tasks rather than full representation	127	16%
Appointment of a pro bono representative	78	10%
Other	177	22%
<b>Total</b>	<b>790</b>	<b>100%</b>

**Figure 9.2**



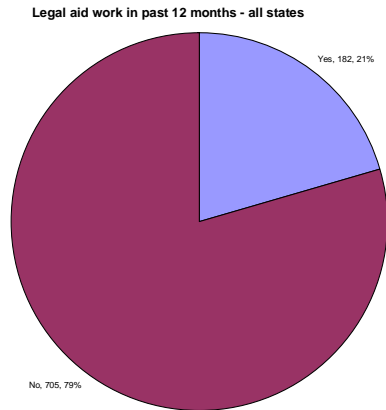
**Section 10 - Legal Aid work**

1. Did you do any legal aid work in the last 12 months?

**Table 10.1**

Legal aid work in last 12 mths?	Total	%
Yes	182	21%
No	705	79%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 10.1**

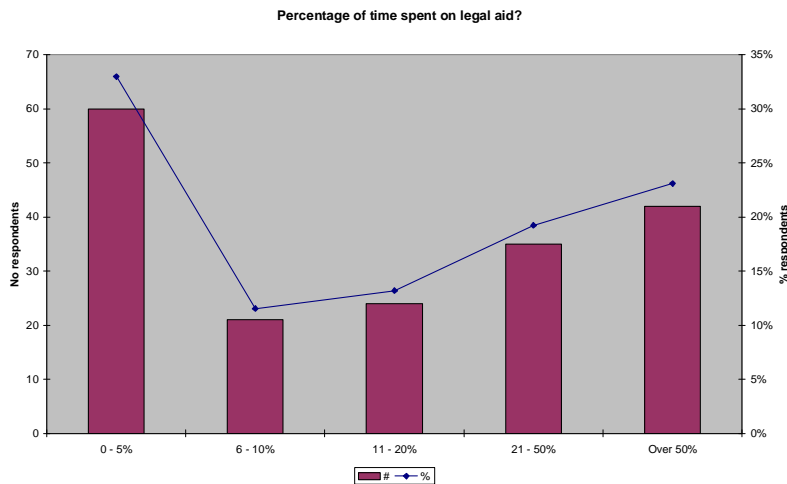


2. In the last 12 months, approximately what percentage of your time was for legally aided clients?

**Table 10.2**

In the last 12 months, approximately what percentage of your time was for legally aided clients?	Total	%
0 - 5%	60	33%
6 - 10%	21	12%
11 - 20%	24	13%
21 - 50%	35	19%
Over 50%	42	23%
<b>Total</b>	<b>182</b>	<b>100%</b>

**Figure 10.2**



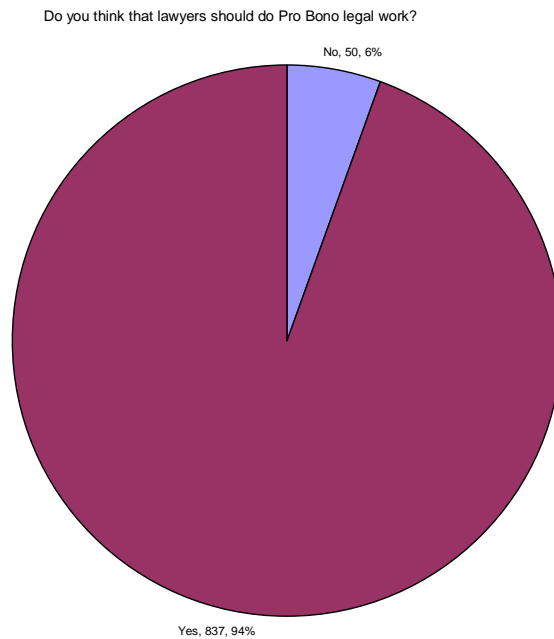
**Section 11 - Attitudes to pro bono legal work**

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

**Table 11.1**

<b>Should Lawyers do PB?</b>	<b>Total</b>	<b>%</b>
No	50	6%
Yes	837	94%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 11.1**

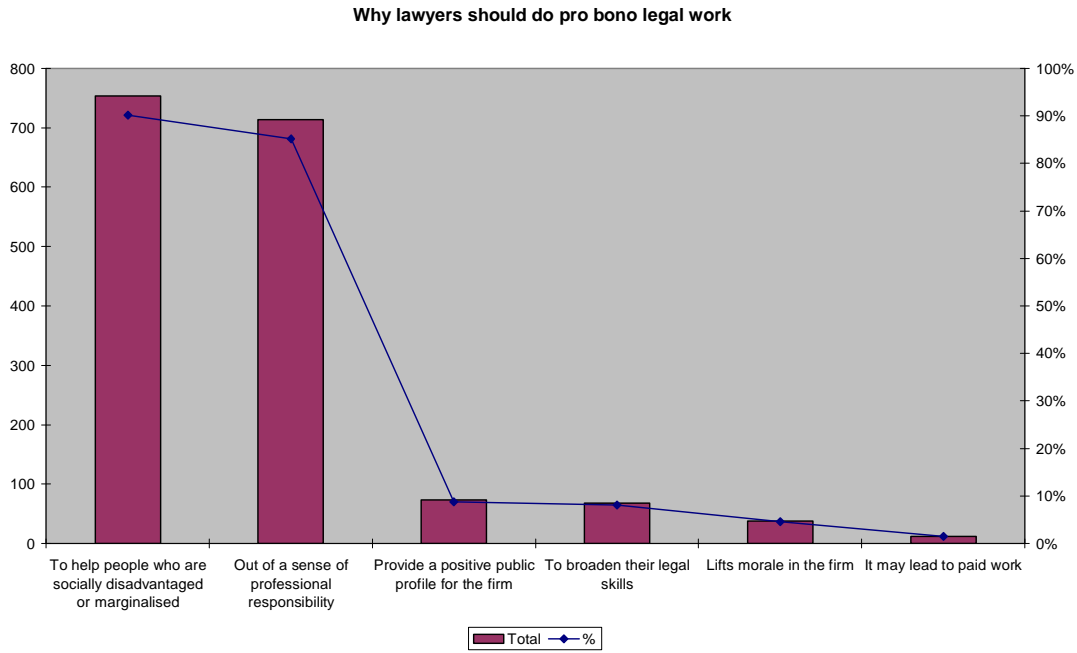


2. Tick the top two factors as to why you think lawyers should do pro bono legal work.

**Table 11.2**

<b>Why lawyers should do pro bono legal work</b>	<b>Total</b>	<b>%</b>
To help people who are socially disadvantaged or marginalised	754	90%
Out of a sense of professional responsibility	713	85%
Provide a positive public profile for the firm	73	9%
To broaden their legal skills	68	8%
Lifts morale in the firm	38	5%
It may lead to paid work	12	1%
<b>Total</b>	<b>837</b>	<b>100%</b>

**Figure 11.2**

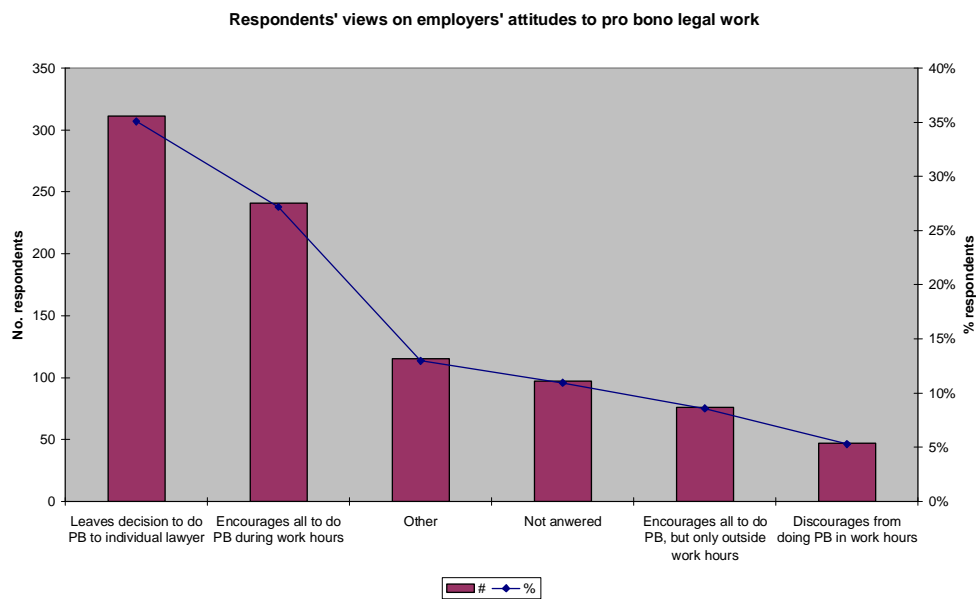


3. What do you think is your firm's/employer's attitude to pro bono?

**Table 11.3**

<b>What do you think is your firms/employers attitude to pro bono?</b>	<b>Total</b>	<b>%</b>
Leaves decision to do PB to individual lawyer	311	35%
Encourages all to do PB during work hours	241	27%
Other	115	13%
Not answered	97	11%
Encourages all to do PB, but only outside work hours	76	9%
Discourages from doing PB in work hours	47	5%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 11.3**

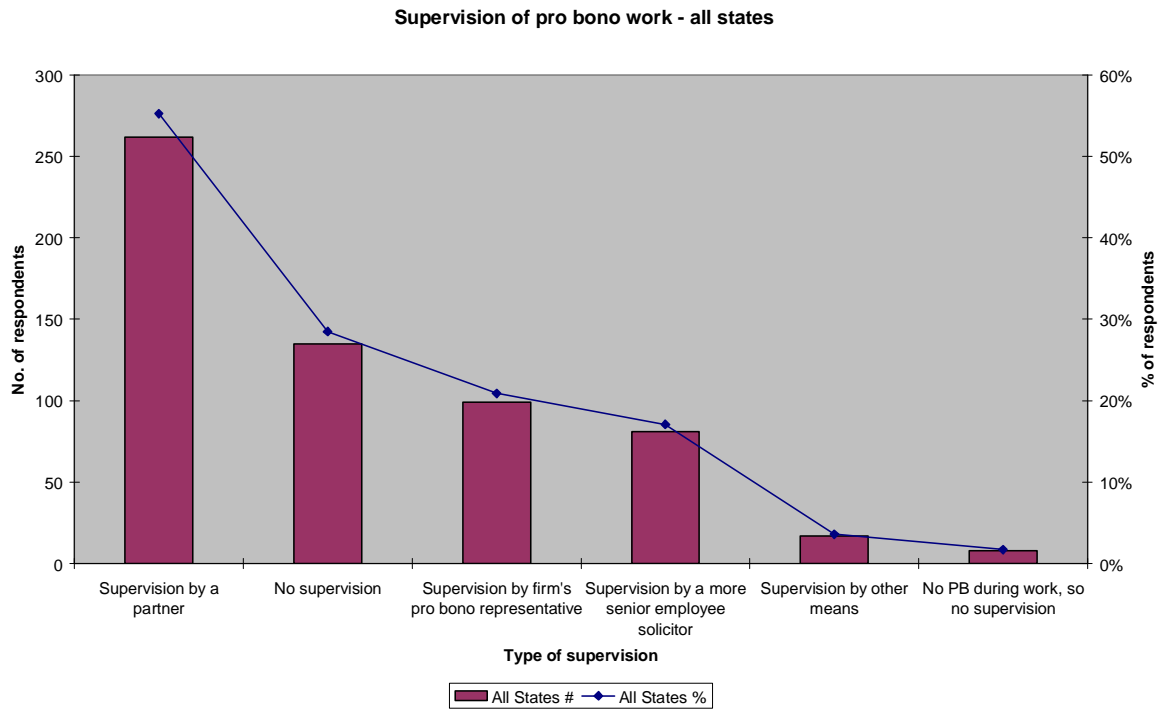


4. In relation to pro bono matters that you carry out during work hours, who supervises that pro bono work?

**Table 11.4**

<b>Supervision of pro bono matters carried out during work hours</b>	<b>#</b>	<b>%</b>
Supervision by a partner	262	55%
No supervision	135	28%
Supervision by firm's pro bono representative	99	21%
Supervision by a more senior employee solicitor	81	17%
Supervision by other means	17	4%
No PB during work, so no supervision	8	2%
<b>Total</b>	<b>474</b>	<b>100%</b>

**Figure 11.4**



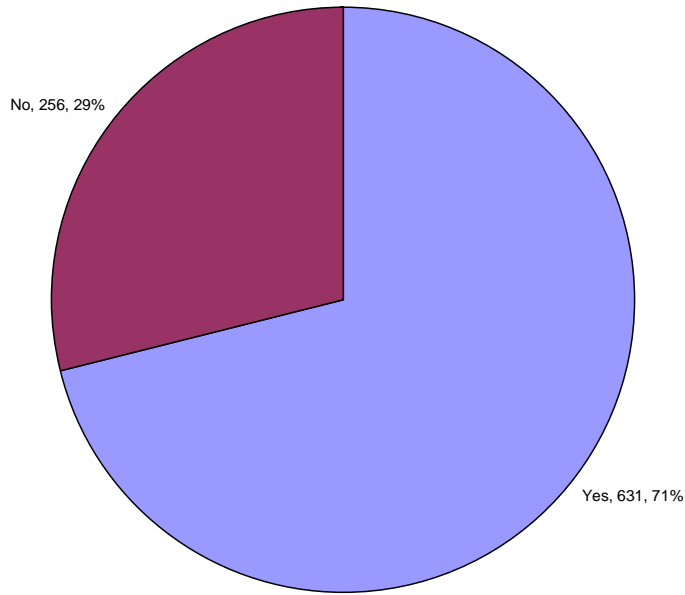
5. Do you think that the Law Society should issue a policy statement about lawyers' commitment to pro bono services?

**Table 11.5**

	<b>Total</b>	<b>%</b>
Yes	631	71%
No	256	29%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 11.5**

Should the Law Society issue a policy statement about lawyers' commitment to pro bono services?



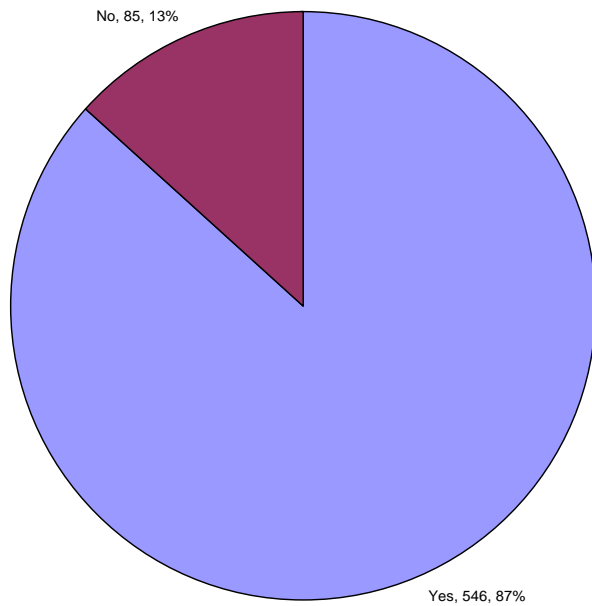
6. Do you think it should include a voluntary pro bono goal to encourage all lawyers to aspire to perform pro bono legal work?

**Table 11.6**

	<b>Total</b>	<b>%</b>
Yes	546	87%
No	85	13%
<b>Total</b>	<b>631</b>	<b>100%</b>

**Figure 11.6**

Should statement include a voluntary pro bono goal?



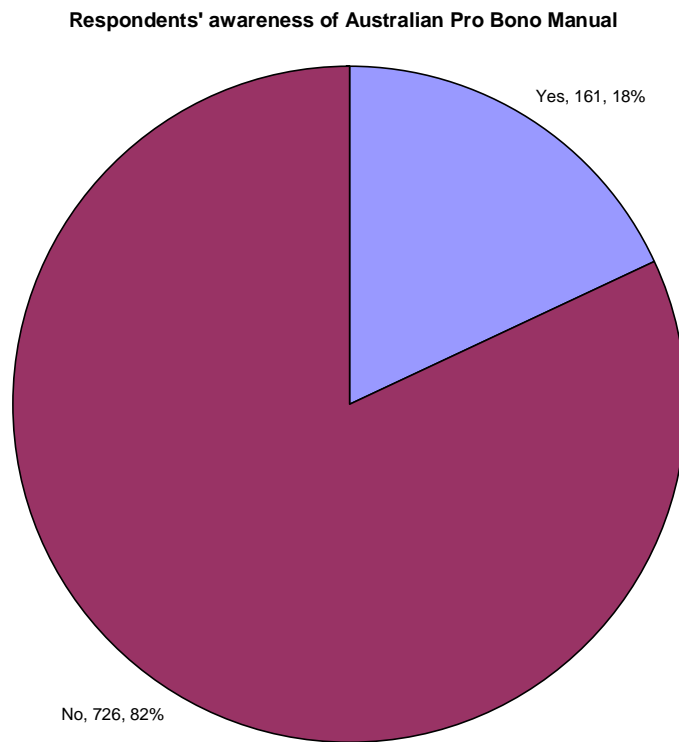
**Section 12 - Australian Pro Bono Manual**

1. Are you aware of the Australian Pro Bono Manual – a Practice Guide and resource Kit for Law Firms?

**Table 12.1**

	<b>Total</b>	<b>%</b>
Yes	161	18%
No	726	82%
<b>Total</b>	<b>887</b>	<b>100%</b>

**Figure 12.1**





# Index

- Academic lawyers, 6, 9, 15, 17, 49, 62  
Access to justice, 28, 32, 35, 39  
Advice, 4, 5, 8, 14-15, 50-53, 77  
Amount of pro bono, 5, 19-20, 23, 31, 35, 39, 40, 48, 54, 85  
Aspirational target (also *Voluntary pro bono goal*), 4, 8, 19, 26-27, 56, 95  
Australian Bureau of Statistics (ABS), 4, 5, 7, 17, 45  
Australian Capital Territory (ACT), 6, 7, 9, 12, 13, 20, 28, 38, 42, 44, 48, 58
- Banking & finance law, 16, 23, 49, 65, 66, 74  
Banking Ombudsman, 16, 23  
Barriers (also *obstacles*) to pro bono, 8, 25-26, 55, 89  
    Billable hours, 26  
    Conflict of interest, 26  
    Financial targets, 26  
    Insufficient expertise, 26  
    Lack of practising certificate, 26  
    Lack of time, 25  
Barristers, 9, 21, 22, 44, 54, 88  
Barrister survey, 4, 6, 22, 25  
Belinda Carpenter, Ass. Professor, 6  
Billable hours, 24, 25, 26, 32, 42-43, 45, 54, 81, 82, 89, 90  
Budget relief, 42-43, 44
- CBD, 11, 18, 20, 22, 23, 49, 64  
Clients, client groups, 4, 5, 13-14, 16, 21-23, 28, 30-33, 35, 46, 48, 54, 55, 57, 78, 79, 89, 91  
    Individual clients, 4, 5, 14, 21, 32, 35, 36, 40, 44, 48, 50-53, 57, 78-79  
Cold call, 22, 23, 54, 89  
Company/commercial law, 11, 16, 23, 40, 49, 66, 67  
Community Legal Centres, 4, 5, 17, 21, 22, 27, 29, 37-38, 43, 46, 49, 51, 54, 57, 62, 88  
Community legal organisations, 4, 38, 48, 50, 57, 78  
Community legal education, 5, 15, 36, 48, 50, 57, 77  
Conflict of interest, 26, 43, 55, 89  
Construction law, 11, 16, 23, 49, 65, 66, 73  
Continuing legal education, 30, 31  
Corporate lawyers, see also In-house lawyers, 6, 9, 10, 15, 18, 43, 49, 62  
Costs, 41  
Criminal Law, 4, 11, 16, 23, 28, 38, 39, 49, 65, 66, 73, 74
- Debt law, 4, 11, 15, 16, 23, 49, 65, 66, 73
- Definition of pro bono legal work, 5, 7, 8, 29-30, 41, 48, 57  
Disbursements, 38, 41  
Duty roster, 17, 50, 52, 53, 76
- Employee solicitors, 9, 13, 15, 18, 22, 49, 56, 57, 63, 94  
Employment law, 11, 23, 38, 47, 49, 65, 66, 74  
Encouraging young lawyers, 37  
Encourage pro bono, 25-26, 32, 35, 41, 43-45, 55, 56, 90, 93, 95  
Excel, 7
- Fair Trading Centres, 16, 23  
Family law, 4, 16, 23, 28, 38, 44, 49, 50, 65, 66, 73, 74  
Fee-earner, 12, 69  
Financial targets, 24-26, 42-43, 54, 55, 81, 83, 89, 90  
Firm practice, 8, 23, 27, 29, 40-41  
    Billable hours targets, see Billable hours  
    Financial targets, see Financial targets  
    Firms' knowledge, 23, 24, 50, 75  
    Performance appraisal, 23-25, 53, 55, 82, 90  
    Practice issues, 53, 80  
    Pro bono policy, 23, 24, 41, 42, 53, 55, 57, 80, 90  
    Promotion, 23, 24, 54, 81  
    Recognition, 25, 32-34, 40, 41, 55, 90  
    Record keeping, 5, 7, 23, 24, 53, 80  
    Salary review, 23, 24, 54, 81  
    Structured management, 24  
    Supervision, 37, 56, 94  
Flexible work hours, 25, 45, 55, 90
- General policy concerns, 29-38  
Geographic location, 8, 11, 18, 24, 49, 64  
Glossary of terms, 57  
Government lawyers, 6, 9, 13, 31, 45, 49, 62  
Government legal services, 45  
Government role, 29, 45
- Helping the disadvantaged, 5, 26, 28, 37, 55, 92  
Hours of pro bono work, see Amount of pro bono  
Housing & tenancy law, 11, 38, 49, 50, 65, 66, 73, 74
- Incentive schemes, 46  
Increase in pro bono work, 14, 20  
In-firm pro bono, 5, 8, 17, 41, 50, 77  
Indigenous Legal Organisations (ILOs), 4, 21-23, 54, 88

Law Council of Australia, 7, 29  
 Law firm survey, 5, 6  
 Law Institute of Victoria, 21  
 Law reform and policy work, 4, 5, 15, 50, 57, 78  
 Law Societies, 6-14, 19, 30, 34, 35, 38, 46, 54, 56, 88, 94  
     Policy statement 26, 56, 94-95  
 Legal Aid, 5, 7, 8, 48, 54, 55, 57, 88, 91  
     Attitudes and values, 27-29  
     Referrals, 22, 23  
     Respondent comments, 38-40, 42, 44, 46  
 Legal assistance, 31, 33, 38, 48, 50, 51, 57  
 Litigation, 4, 5, 8, 11, 15, 16, 23, 40, 49-53, 65, 66, 73, 77  
  
 Main areas of practice, 16, 65, 66  
 Mandatory pro bono, 30-31  
 Mapping pro bono in Australia, 6, 7, 13  
 Methodology, 6-8  
  
 National Pro Bono Resource Centre, 4, 6-8  
 Negotiation and alternative dispute resolution, 5, 15, 50, 77  
 Northern Territory (NT), 6, 7, 9, 12, 13, 22, 33, 44, 48, 58  
 Not-for-profit organisations, 4, 5, 14, 17, 21, 45, 50, 78, 79  
 New South Wales (NSW), 5, 6, 9-13, 20, 22, 27-46, 48, 58  
 NSW Law Society Practising Certificate Survey, 13, 14  
 NSW Law Society Profile of Members 2007, 10, 11  
  
 Obstacles to pro bono work, *see* Barriers  
 Other professions, 34, 36  
  
 Paralegals, 9  
 Partners in private practice, 9, 13, 15, 22-24, 49, 67, 68  
 Paid and unpaid pro bono, 17-19, 54, 86-87  
 Pilot survey, Queensland, 4, 6  
 Pro bono policy, 23, 24, 42, 53, 55, 57, 80, 90  
 Pro bono clearing house, 47, 57  
 Pro bono coordinator/representative, 25, 44, 55, 56, 90, 94  
 Professional development, 30, 31, 33  
 Professional responsibility, 5, 25, 26, 30-33, 39, 42, 55, 92  
 Public Interest Law Clearing House (PILCH), 4, 17, 21-23, 41, 52, 57, 88  
  
 Queensland (Qld), 4-7, 9, 12, 13, 20-22, 28, 30-32, 34-39, 42-44, 47, 48, 66-70, 74  
  
 Recipients of pro bono, 8, 21, 30, 36  
 Referrals, 4, 21-23, 37, 46, 54, 88  
 Regional, rural & remote (RRR), 14, 18-21, 23, 41, 49, 64  
  
 Representation (legal), 5, 15, 34, 35, 40, 44, 50, 57, 77  
 Respondent lawyers, 7, 9-19  
     Comments, 29-46  
  
 Secondment, 8, 17, 41, 48, 51, 57, 76  
 Seniority, 4, 9-11, 14, 18, 43, 48, 58-60  
 Single partner firms, 18, 19, 23  
 Small firms, 25, 34, 35, 40-41  
 Social security law, 11, 49, 50, 74  
 Sole practitioners, 9, 10, 13, 15, 17-24, 32, 40, 49, 63, 67, 68  
 Sources of pro bono, 8, 21-23, 54, 88  
 South Australia (SA), 7, 9, 13, 22, 28, 30, 31, 33, 37, 40-42, 44, 46, 48, 58  
 Specialist services, 17, 50, 52, 57, 76  
 SPSS, 7  
 State issues, 29, 46-47  
 Suburban offices, 20, 40  
  
 Tasmania (Tas), 6, 7, 9, 12, 13, 22, 30, 39-41, 45, 46, 48, 58  
 Tax relief, 42-43  
 The Australian Pro Bono Manual, 34, 56, 96  
 Time off in lieu, 42-43  
 Tort reform, 40  
 Transactional work, 5, 14, 15, 50, 51, 57, 77  
 Type of lawyer, 9-10, 15, 22, 49, 62, 63  
  
 Victoria (Vic), 5, 7, 9, 20-22, 30-31, 33, 34, 36-38, 41-45, 48, 58  
 Victorian Bar Association, 21  
 Voluntary pro bono, 30-31  
 Voluntary pro bono goal, *see* Aspirational target  
 Volunteering, 4, 5, 8, 17, 27, 37, 41, 42, 50, 51, 76  
  
 Western Australia (WA), 6, 7, 9, 12, 13, 22, 48, 58  
  
 yellowSquares, 6, 7

