



– National Survey –

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

November 2008

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Background

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. 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 aims 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.

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', (i.e. 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 used in its 2001-2002 survey of the legal profession and the methodology used by the Centre in relation to the definition of pro bono legal work.

The Centre's definition of pro bono legal work is time spent by lawyers:

Giving legal assistance for free or at a substantially reduced fee to:

- Low income or disadvantaged individuals who do not qualify for legal aid; or
- Not-for-profit organisations which work on behalf of low-income or disadvantaged members of the community or for the public good;
- Doing law reform or policy work on issues affecting low income or disadvantaged members of the community or public interest matters; and
- On secondment at a community organisation or at a referral service provider.

The following is not considered pro bono legal work for the purposes of this report:

Giving legal assistance:

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

This definition has been adopted by the Commonwealth of Australia under the Legal Services directions which requires all agencies to take into account a law firm's pro bono contribution when purchasing legal services.¹

Survey details

This Report presents key findings and issues that emerged from the overall responses of the 355 individual barristers who completed the survey during December 2007-June 2008, representing approximately 7% of all Australian barristers.² Of these 311 (88%) had undertaken pro bono work in the previous 12 months. The results have been combined to provide a picture of pro bono work nationally, but separate State and territory reports have been prepared. (See Table 1). 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 about:

- Respondent barristers (state and geographic location, age, gender, years of practice, level of seniority);
- Barristers who do pro bono;
- How much pro bono work is done (including a breakdown by type of pro bono assistance and whether such work is increasing);
- Areas of usual practice and areas of pro bono practice;
- Type of pro bono work (e.g. advice, litigation, law reform work);
- Basis on which work undertaken (free, reduced fee);
- Volunteering;
- Recipients of pro bono services;
- Sources of referrals;

¹ See http://www.ag.gov.au/www/agd/agd.nsf/Page/LegalservicestoGovernment_WhatsNew

² Based on the Law Council of Australia's (LCA) estimate of Constituent Bodies membership numbers in January 2008 – communications with the LCA, September 2008.

- Record keeping (barristers' policies and attitudes);
- Legal aid work;
- Barriers to pro bono legal work.

As well, respondents were asked more generally about their attitudes towards pro bono work, Legal Aid and aspirational targets.

At the end of the survey, respondents were invited to make additional comments about their pro bono work. Some of those comments have been compiled and included in Part 2: Issues.

Part 3 of the Report (p. 53) provides details of the survey questions (with attached glossary, including the definition of pro bono used in the survey). The survey data was also broken down by State and Territory, and is presented as appendices I-VII to this report.

While the data in this Report are based on a relatively small sample³, it gives some insight into mix of gender, age, seniority, and geographic location of barrister practices. It also gives an idea of what pro bono work is done by barristers, how it is done and for whom it is done.

It should be noted that fewer than 50% of barristers keep records of their pro bono work and that many of the responses are thus recollected rather than recorded.

Some clear trends and issues emerge and we have endeavoured to represent these accurately. If there is a bias in the sample because individual barristers who completed the 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 State and Territory Bar Associations and the Australian Bar Association whom supported the survey project by contacting their members and inviting them to participate.

³ Based on an estimate by the Law Council of Australia (LCA), as at January 2008 there were 2,043 barristers in New South Wales, 1,700 barristers in Victoria, 920 barristers in Queensland, 200 barristers in South Australia, 171 barristers in Western Australia, 55 barristers in the Australian Capital Territory, and 32 barristers in the Northern Territory. There was no estimate for the number of barristers in Tasmania. Communications with the LCA, September 2008.

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.

November 2008

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 developed 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 sources of work, barriers to delivering pro bono legal services and areas for possible improvement. The survey was then sent to online research specialists, yellowSquares, for conversion to a web-based survey.

Individual barristers were approached through their Bar Associations so that the survey might access the most number of Barristers with practising certificates across Australia. However, membership of a Bar Association is not compulsory in all States and Territories, which meant that in some States it was not possible to access 100% of the practitioner community via the Bar Associations.

Efforts were made to encourage Bar Association members to complete the survey. Multiple follow-up emails, which included a web link to the survey, were sent to members from their Bar Associations. A prize was offered in each State and Territory to the barrister who suggested the most imaginative collective noun for a group of pro bono barristers. In addition, the Survey was promoted on the Centre's website.

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 Bar Associations, 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. When the Survey was completed in a specific state, the relevant link was closed off. The data was downloaded by yellowSquares to the Centre as a spreadsheet and analysed using Excel, and processed for presentation as tables and charts.

Executive Summary

This is the second of a planned series of national surveys of pro bono practice undertaken by the National Pro Bono Resource Centre ('the Centre'). The Centre embarked on the data gathering process with a first survey in 2006 of individual solicitors and the results were published in 2007. This survey of barristers commenced in December of 2007, with most of the data being gathered in the first half of 2008. A survey of the pro bono practices of Australian law firms was also conducted in 2008, the results of which were published in September 2008.

The rationale for the surveys stemmed from an awareness that the Australian Bureau of Statistics ('ABS') had not surveyed the profession since 2002 and did not intend to do so until 2009. The Centre also formed the view that it was worthwhile researching a broader range of issues than those proposed by the ABS. The Centre thus engaged the support of the legal profession through its professional societies to conduct this survey.

This Report deals with pro bono practice of barristers in each State and Territory. To produce it, data about individual barrister respondents, from age and seniority to type, location, details of their pro bono practice and their attitudes to pro bono and to Legal Aid work, were compiled and cross-referenced.

Key findings

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

- 88% of the respondents had done some pro bono legal work in the past 12 months. ABS figures for 2001-2002 indicated that 78.4% of barristers at that time were undertaking pro bono work.⁴

⁴ The definition of pro bono used by the ABS included work done under a grant from Legal Aid, which was not considered to be pro bono legal work for the purposes of this survey.

- 38% of respondents had done more pro bono work in the past 12 months than in the previous 12 months. Thirty percent reported no change and 18% had done fewer hours in the past 12 months than in the previous 12 months. It is worth noting that fewer than 50% keep records, thus many of the responses are recollected rather than recorded.
- The main source of pro bono was direct requests from solicitors, followed by referrals from a community organisation. The lowest level of referrals came from a Law Society; however, barristers get pro bono referrals from a wide variety of sources. (See section 9, p. 27)
- The area of law in which the greatest percentage (31%) of barristers offered pro bono services was criminal law. This was followed by administrative and constitutional law (25%), then litigation (19%). (See full list p. 24, Table 9)
- The main obstacle to pro bono work was 'lack of time' followed by 'lack of a solicitor to assist with the matter' and 'insufficient expertise in relevant areas of law' Almost 14% of the respondents mentioned the cost of disbursements as a barrier to undertaking pro bono work. Another 14% mentioned conflict of interest with fee-paying clients. 14% also mentioned that they felt no constraints to their undertaking pro bono work.
- When asked what would encourage respondents to do more pro bono work, the highest response (34%) was 'nothing'. Presumably these barristers felt that they had reached their pro bono limit. A large number of respondents also indicated that the availability of solicitors to assist with pro bono matters would encourage them to do more pro bono work.
- The average number of pro bono hours per year for the 355 survey respondents was 44.5 hours with 59% of respondents undertaking more than 35 hours of pro bono work (the National Pro Bono Aspirational Target figure) during the past 12 months. The median number of hours across all barristers was 41-50 hours.
- 75% of all pro bono work provided across the States and Territories was in the form of verbal advice, followed by representation at a court or tribunal at 65%.

- 74% of the respondents undertook pro bono legal work for individuals, whilst a third provided pro bono work for community legal centres and other not-for-profit organisations.
- 43% of all respondents had done Legal Aid work in the last 12 months.
- 92% of respondents agreed that barristers should do pro bono work; the top two factors nominated as reasons for undertaking pro bono work were helping the disadvantaged and marginalised (76%) and a sense of professional responsibility (62.5%).
- 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 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. A disenchantment with the current Legal Aid system emerged as a major issue for barristers. Respondents also provided valuable information on their concerns regarding policy and the role of the government, and practice issues relating to pro bono legal work.

Concerns about a range of topics have been compiled in **Part 2: Issues** (p. 33).

Barristers v Solicitors

The following comparisons are based on the results of the Centre’s National Survey report on the pro bono work of individual Australian solicitors, published in December 2007.⁵

Of the 335 individual barristers who responded to the survey, 88% had either done or coordinated pro bono legal work in the previous 12 months. This compares with 80% of solicitors. The areas of law most commonly nominated by respondents as an area of law in which they had done pro bono legal work were criminal law (31%) followed by administrative and constitutional law (25%). For solicitors, the area of law in which the largest number of practitioners offered pro bono services, was debt law (21%), followed by

⁵ See https://wic006u.server-secure.com/vs155205_secure/CMS/files_cms/SolicitorSurveyReport-Final.pdf

criminal law, then civil litigation, then family law. Survey data indicated that barristers undertook slightly more pro bono work for individuals than for not-for-profit organisations. Barristers reported that 75% of their pro bono work was in the form of verbal advice, whether undertaken for clients of a firm or with not-for-profit organisations. Solicitors reported that 94% of their pro bono work was in the form of verbal advice.

On average, the barristers surveyed had done 35 hours of pro bono work during the previous 12 months, with 59% reporting that they had done more than 35 hours compared with the average pro bono hours of solicitors which was 42.5 hours, with 56% of solicitors doing more than 40 hours a year. A greater percentage of the barristers surveyed had done more Legal Aid work (43%) in the previous 12 months than was reported by solicitors (21%).

Thirty-eight percent of barristers reported spending more time on pro bono in the last 12 months than in the previous 12 months. Eighteen percent had done less pro bono and 30% reported no change. This compares with the levels of pro bono reported by solicitors, who indicated that 53% had increased their hours of pro bono work during the previous 12 month period; 13% reported less pro bono work during that period and 29% reported no change in the hours spent on pro bono work.

A smaller number of barristers (28%) had volunteered legal assistance at a community organisation compared to solicitors (42%).

Barristers reported that 74% of their work was for individuals, 31% for CLCs and 32% for other not-for-profits. Obviously, some assisted more than one type of recipient. These figures are almost identical to those for solicitors who reported that 74% of their work involved assistance to individuals and 35% to CLCs. There was, however, a significant difference between barristers and solicitors in relation to other not-for-profit organisations where 52% of solicitors reported assistance compared to 32% for the barristers.

The single biggest source of pro bono referrals (45%) to barristers was in the form of direct request from solicitors. This was followed by referrals from community organisations (38%), direct requests from families and friends (37%) and then, referrals from bar legal assistance schemes (33%). Other sources were direct requests from clients (29%), referrals from

clearing houses (29%),⁶ from other barristers (27%) and from courts and tribunals (21%). Just 8% of referrals came from Indigenous Legal Organisations ('ILOs').

This compares with solicitor practice where overall, the greatest percentage of clients (43%) came from referrals by CLCs or other services such as Public Interest Law Clearing Houses ('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 (7%).

Fewer than half of the barristers surveyed (42%) kept formal records of their pro bono work. This compares to 68% of all solicitors who reported that records were kept of their pro bono work. It is however very similar to the record keeping pattern for solicitors who were sole practitioners and single partner agencies, where just over half did not keep records and to firms with 2-9 partners where 63% said that their firm did not track their pro bono work.

A similar percentage of barristers (92%) and solicitors (94%) agreed that lawyers should do pro bono work. The two main reasons given for undertaking pro bono work were the same for barristers and solicitors: 76% of barristers nominated 'helping the disadvantaged and marginalised' (compared to 90% of solicitors) and 63% nominated 'a sense of professional responsibility'. Many barristers also nominated 'personal satisfaction from providing the service' (17%) compared with solicitors, where no-one nominated this as a reason, and 'putting something back into the profession' (17%). Again, no solicitors nominated this as a reason for doing pro bono legal work. For solicitors, the second most nominated reason was out of 'a sense of professional responsibility' (85%), followed by 'to provide a positive public profile for the firm' (9%), and 'to broaden their legal skills' (8%).

As with the solicitors who were surveyed, barristers reported that the main obstacle to undertaking pro bono work was 'lack of time' (65%). The barristers also reported 'lack of a solicitor to assist with the matter' (43%) and 'insufficient expertise in relevant areas of law' (20%) as significant obstacles. In addition to 'lack of time', the main obstacles for solicitors were 'insufficient expertise in relevant areas of law' (30%) and 'pro bono hours do not count towards my billable hours or financial targets' (23%).

⁶ Not all State Bar Associations have a legal assistance scheme or a public interest law clearing house. The State-by-State results provide a better picture. They can be found in the appendices of this Report.

Other issues

When asked ‘what would encourage you to do more pro bono work?’, the highest response was ‘nothing’ (34%), indicating that many barristers feel they have reached their pro bono limit. Many respondents also indicated that the availability of a solicitor to assist with pro bono matters would encourage them to do more pro bono work, highlighting a key barrier for barristers to doing pro bono work.

Respondents were also asked open-ended questions about their attitudes to Legal Aid work and “No win, no fee” work, about their levels of satisfaction regarding their pro bono practice as well as if there was anything else they would like to tell us about their pro bono practice. The respondents’ disenchantment with the current Legal Aid system emerged as a major issue. The respondents also provided valuable information on several other topics, ranging from the role of the government, mandatory and voluntary pro bono, recognition and visibility for pro bono, rationale and motivation and cost issues to barriers to pro bono. These comments are presented at **Part 2: Issues**.

Part 1: Survey results

1 Respondent barristers

A total of 355 solicitors across Australia chose to respond to the survey. The largest response from any one State was from Victoria (43% of respondents), followed by Queensland (26%), then New South Wales (16%) (See Table 1). Of the 355 respondents, 88% had done pro bono work in the previous 12 months; 10% had done pro bono work previously; 2% had never done pro bono work (see Table 2). This amounts to 98% of the barristers surveyed who have at some stage undertaken some pro bono work during their careers. In the 2001-2002 survey undertaken by ABS, 78% of barristers indicated that they had undertaken pro bono work in the previous 12 months with a total of 614,100 hours of pro bono work.

The survey includes barristers from all States and Territories, from the big and small end of town, from city to country and, inevitably, small numbers in remote areas. The survey sample covers a range of ages and levels of seniority.

Table 1 – Respondents by State

State	No. of respondents	%	Total no. of Bar Association members ⁷	%
ACT	8	2%	55	14.5%
NSW	58	16%	2043	2.8%
NT	4	1%	32	12.5%
QLD	92	26%	920	10%
SA	17	5%	200	8.50%
TAS	6	2%	N/A	N/A
VIC	154	43%	1750	8.80%
WA	16	5%	171	9.30%
Total	355	100%	5184	6.80%

⁷ Based on an estimate of the Law Council of Australia (LCA) of constituent body membership numbers as at January 2008. No numbers for Tasmania were provided. Communications with the LCA – September 2008.

Type of barrister

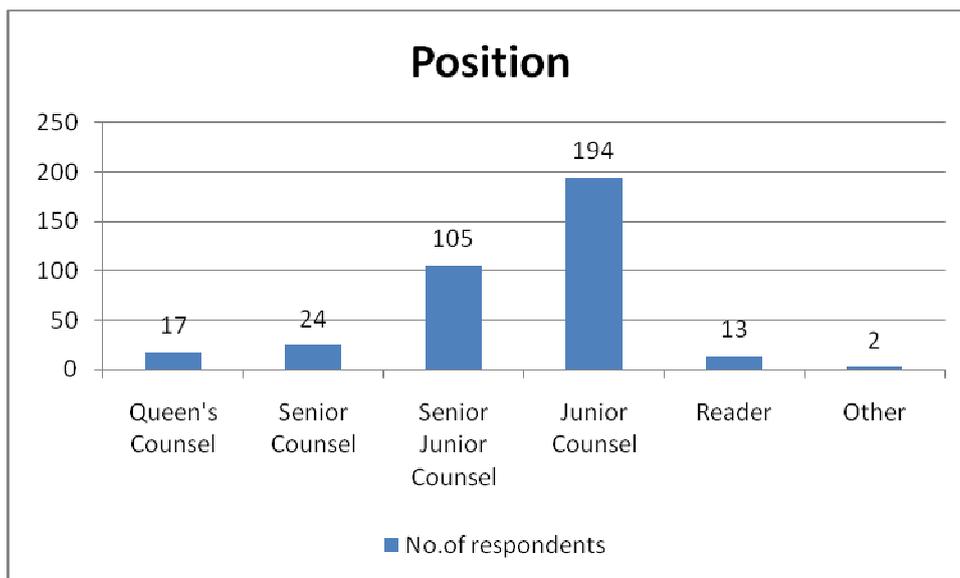
Senior Counsel (including Queens Counsel) were 12% of the sample. Just under a third (30%) were Senior Junior Counsel and over half (55%) of the respondents were Junior Counsel. There were 13 Readers (4%) who responded.

Using Victorian figures as a guide, data from the Victoria Bar Association indicates that these percentages are broadly in line with the demography of the Victorian Bar.⁸ The Victorian Bar has 13% Senior Counsel (including Queens Counsel) – comparable to 12% in sample and 87% Senior Junior Counsel, Junior Counsel and Readers, again comparable to the 88% Senior/Junior, Junior Counsel and Readers who responded to the survey.

Table 2 - Position

Position	No. of respondents	%
Queen's Counsel	17	5%
Senior Counsel	24	7%
Senior Junior Counsel	105	30%
Junior Counsel	194	55%
Reader	13	3%
Other	2	1%
Total	355	100%

Chart 1 - Position

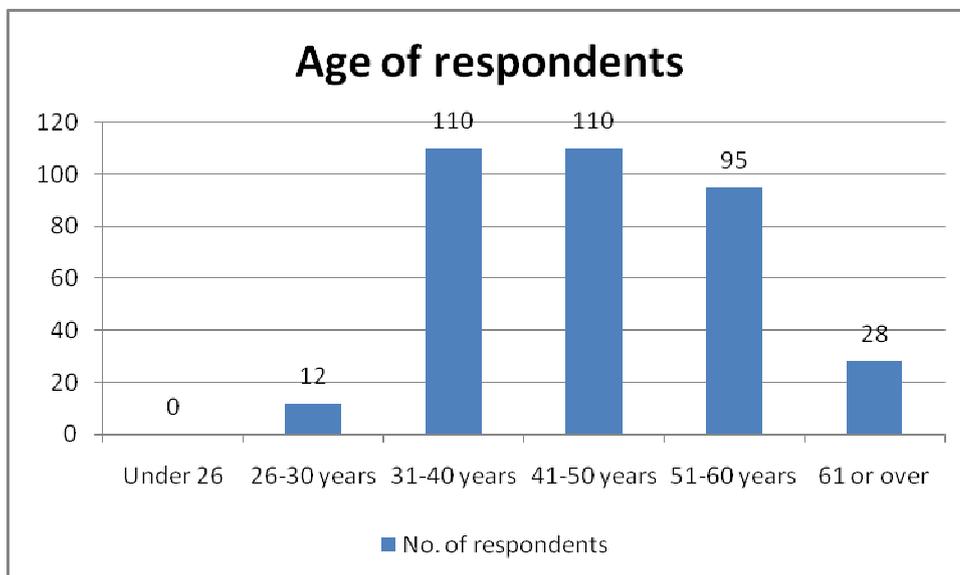


⁸ See <http://www.vicbar.com.au/b.3.2.aspx>

Age & length of time at the Bar

There were equal numbers of respondents (110) in the 31-40 and 41-50 age group, with 95 respondents in the 51-60 age group. Twenty-eight respondents were 61 or over and 12 respondents were aged under 30. The national median age of respondents was 41-50 years, or 10 years older than the solicitors surveyed whose median age was 31-40.

Chart 2 – Age of respondents



Of the respondents, 68% had been admitted for over 10 years; 20% had been admitted for between 6-10 years; 12% had been admitted for less than 6 years.

Chart 3 – Years in practice

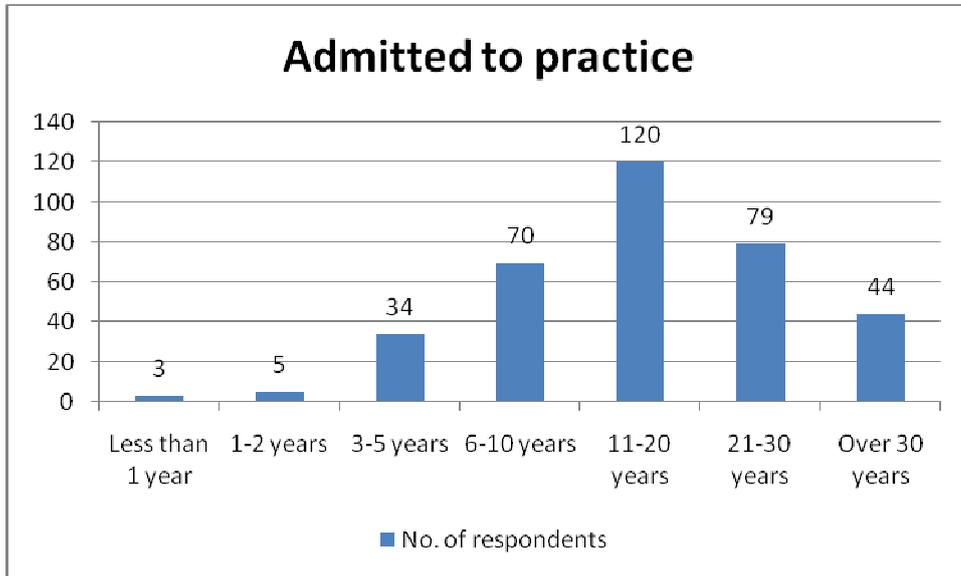
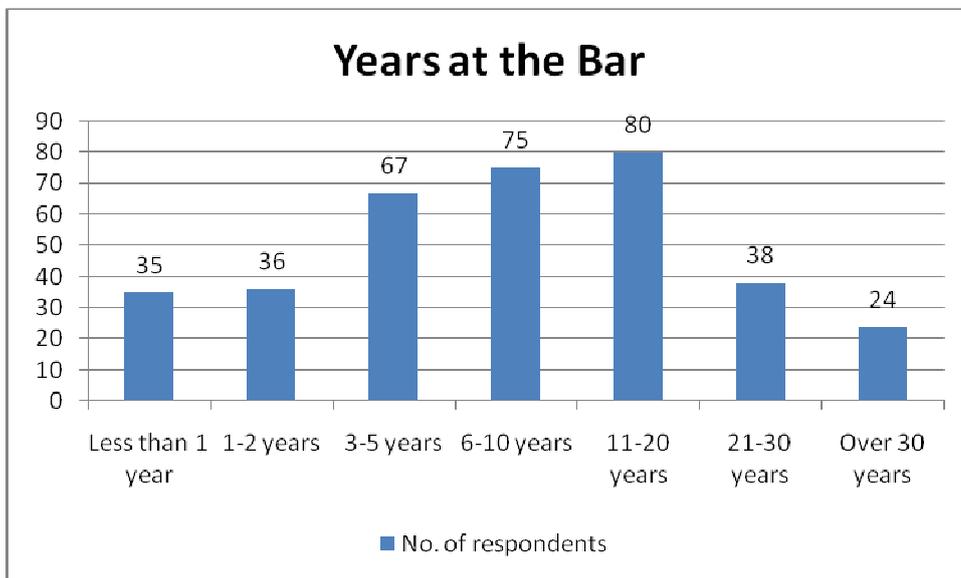


Chart 4 – Years at the Bar



Geographic location

The great majority of barrister practices (89% or 317) were in State or Territory CBDs, with only 5% (16) in regional cities, 4% (14) in suburban areas, 2% (7) in rural areas and less than 1% (1) in a remote area.

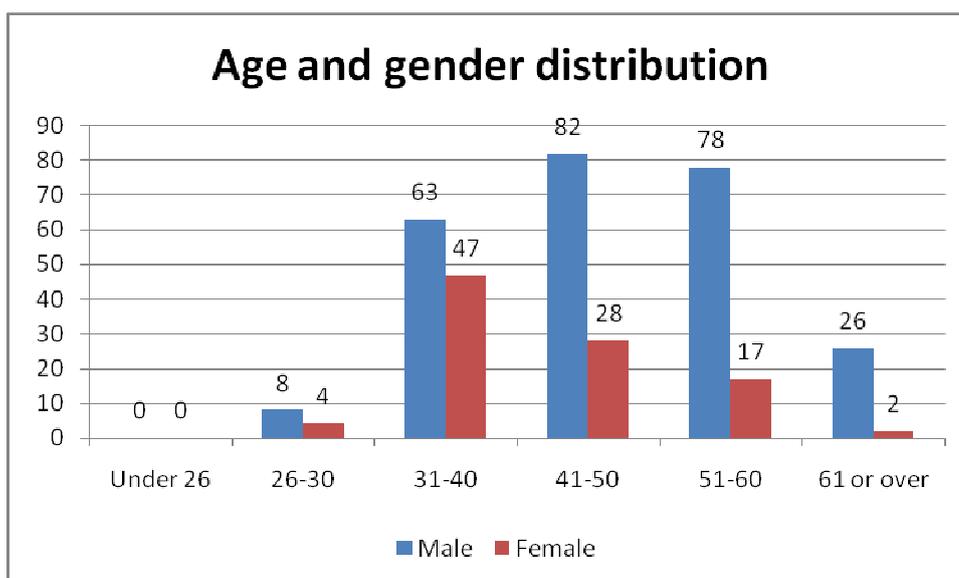
Table 3 – Location of chambers

Location	No. of respondents	%
Capital city CBD	317	89%
Capital city suburb	14	4%
Regional city or area	16	5%
Rural area	7	2%
Remote area	1	0.20%
Total	355	100%

Gender

Seventy-two percent of the respondents were male and 28% were female. In Victoria, the state with most respondents, Bar Association figures show that 78% of the practising counsel are male and 22% are female. While the figures from the survey are roughly comparable, they indicate that a higher percentage of females than males responded to the survey. (Note that New South Wales Bar Association has 17% female members with practising certificates.)

Chart 5 – Age and gender



2 *Barristers who do pro bono*

Of the 355 barristers surveyed, 311 or 87% had done pro bono legal work in the previous 12 month period. An additional 10% of the barrister respondents who had not undertaken any pro bono work in the 12 months before the survey had done pro bono work prior to that time. In total, 98% of the respondents had at some time done pro bono work.

Table 4 - Respondents and pro bono by State and Territory

State	Total respondents	Pro bono in last 12 months	Pro bono previously	Never done pro bono	% never done pro bono
ACT	8	7	1	0	0%
NSW	58	51	6	1	2%
NT	4	4	0	0	0%
QLD	92	81	10	1	1%
SA	17	13	4	0	0%
TAS	6	5	1	0	0%
VIC	154	136	14	4	3%
WA	16	14	1	1	6%
Total	355	311	105	7	2%

Pro bono and type of practice

The percentages of Senior Counsel, Senior Junior Counsel and Junior Counsel who undertake pro bono are remarkably similar across States and Territories. Ninety-three percent of Senior Counsels (including Queen's Counsel) had done pro bono legal work in the last 12 months. Eighty-nine percent of Senior Junior Counsels had done pro bono legal work in the last 12 months and 88% of Junior Counsels had done pro bono legal work in the last 12 months.

Gender

The percentage of women who did pro bono work in the survey corresponds with the number of women in the sample – 72% respondents were male, 28% respondents were female. Ninety-one percent of female respondents reported doing pro bono work in the past 12 months, compared with 86% of men.

Geographical location

100% of respondents in rural areas and remote areas reported doing pro bono legal work in the past 12 months, compared with 92% of respondents in capital city suburbs, 89% in capital city CBDs, and 88% of respondents whose chambers are located in a regional city or area. The average hours of pro bono work were 31-40 in capital city CBD and capital city suburbs, 21-30 hours in a regional city or area and rural areas, and less than 5 hours in a remote area, where there was only one respondent in the survey.

Barristers in capital city suburbs were the most likely to do more than 90 hours of pro bono with 38% of respondents doing more than 90 hours. In rural areas, 28% of barristers reported doing more than 90 hours of pro bono work and in capital city CBDs, 21% of respondents had done more than 90 hours of pro bono work.

Age & seniority

All respondents in the 26-30 age group reported doing some pro bono in the previous 12 months. This compares with 87% of respondents in the 31-40 age group, 86% of respondents in the 41-50 age group, 87% of respondents in the 51-60 age group, and 89% in the 61 or over age group.

Table 5 – Pro bono hours and age

S6-Q1 Can you estimate how many hours of pro bono legal work you have completed in the last 12 months?	S1-Q4 How old are you?					
	26-30	31-40	41-50	51-60	61 or over	Total
Hours of pro bono work done in last 12 months						
None		14	15	12	3	44
5 hours or less		5		2		7
6-10 hours		2	8	2		12
11-20 hours	2	7	7	10	2	28
21-30 hours	2	11	9	8		30
31-40 hours	2	11	14	8	3	38
41-50 hours	2	14	14	9	5	44
51-70 hours	1	14	7	6	2	30
71-90 hours	1	10	13	17	4	45
More than 90 hours	2	17	21	18	8	66
Don't know		5	2	3	1	11
Total	12	110	110	95	28	355

Table 6 – Pro bono and seniority

Pro bono in the last 12 months	Less than 1 year	1-2 years	3-5 years	6-10 years	11-20 years	21-30 years	Over 30 years	Total
Yes	2	4	34	64	101	70	36	311
No	1	1		6	19	9	8	44
Total	3	5	34	70	120	79	44	355

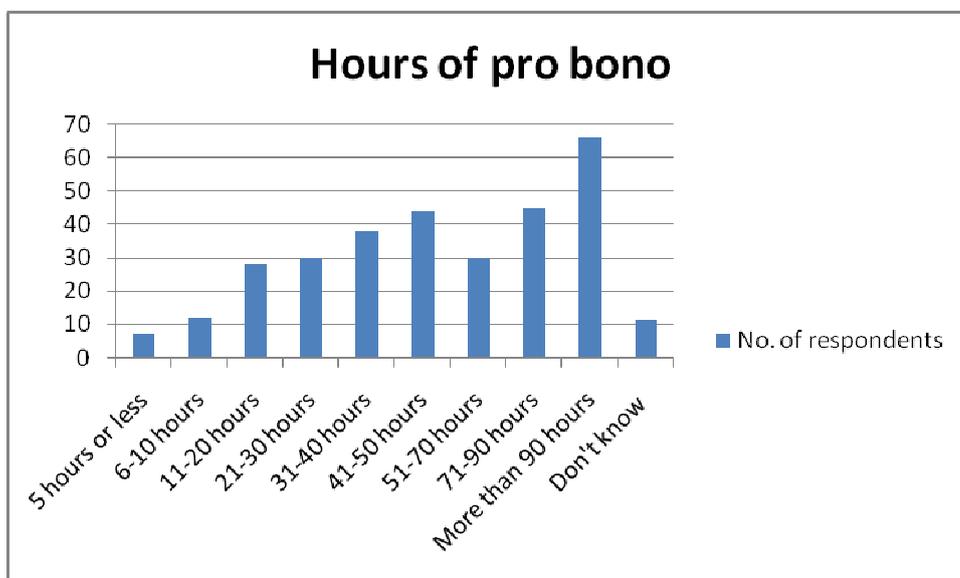
3 *How much pro bono work is done*

The average number of pro bono hours for the 355 barristers in the survey (including those who had done no pro bono work in the previous 12 months) was 44.5 hours⁹, with 59% of respondents undertaking more than the Centre’s aspirational target of 35 hours a year.

Table 7 - Total hours of pro bono

Hours of pro bono	No. of respondents	%
5 hours or less	7	2%
6-10 hours	12	3%
11-20 hours	28	8%
21-30 hours	30	8%
31-40 hours	38	11%
41-50 hours	44	12%
51-70 hours	30	8%
71-90 hours	45	13%
More than 90 hours	66	19%
Don't know	11	3%
Did not do pro bono	44	12%
Total	355	100%

Chart 6 – Total hours of pro bono



⁹ Figure arrived at by using mid-point of each hourly range, and 90 hours for those respondents who had reported doing more than 90 hours.

The median for hours undertaken by all barristers included in the survey was 41-50 hours for the year surveyed. Of the barristers, 19% had done more than 90 hours compared to 27% of solicitors who recorded over 90 hours pro bono work in the 12 months prior to their survey.

Thirteen percent of respondents had done 71-90 hours, and 12% had done 41-50 hours (the median). Over half of the respondent barristers had done fewer than 41 hours pro bono work in the last 12 months.

Over 90 hours a year - Who are these people?

A total of 66 respondents reported doing more than 90 hours of pro bono in the last 12 months.

On a State and Territory basis, 16% of respondents in New South Wales had done over 90 hours of pro bono work; 23% in Queensland; 18% in South Australia, 33% in Tasmania¹⁰; 20% in Victoria and 6% in Western Australia.

By Seniority: 10 of the respondents who had done over 90 hours pro bono work were either Senior or Queens Counsel; 18 were Senior Juniors, 36 were Juniors, and 2 were Readers. Compared with the whole survey sample/all respondents (including those who had not done any pro bono work in the last 12 months), Senior Counsel and Queens Counsel are overrepresented here – 15% of those who did more than 90 hours compared with 11% of the overall sample.

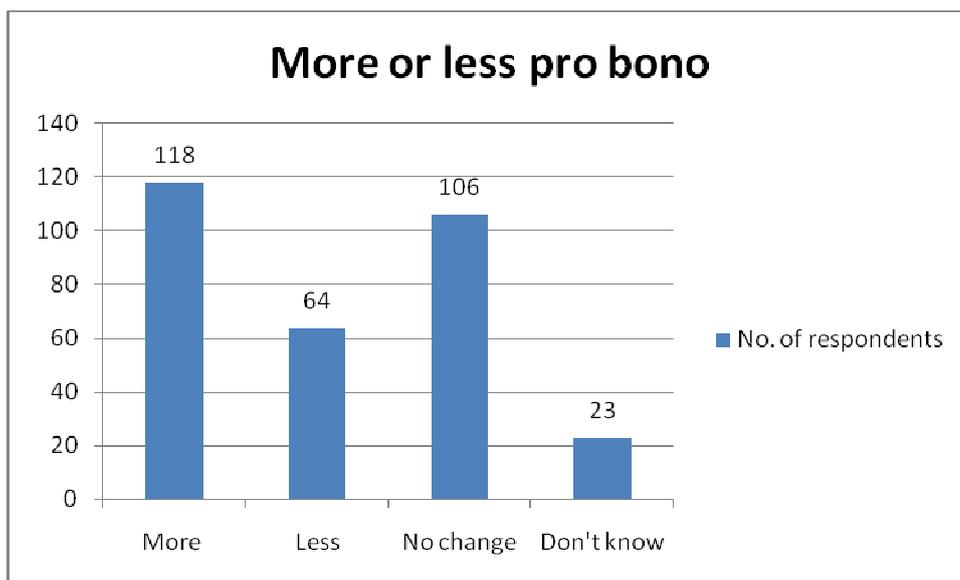
By years of practice: 4 respondents had practised between 3-5 years; 17 respondents between 6-10 years; 20 respondents between 11-20 years, 15 respondents between 21-30 years and 10 respondents had been practising for over 30 years. Relatively more respondents (25%) who had practised between 6-10 years had done more than 90 hours of pro bono, compared with 19% of the overall sample. Those in practice for 3-5 years were slightly underrepresented at 6% of barristers doing more than 90 hours of pro bono, compared with 10% of the overall sample. Also those who had practised for over 30 years were slightly overrepresented at 15% compared to 12% of the overall sample.

¹⁰ Only 6 barristers in Tasmania responded to the survey.

More or less pro bono?

Just over a third of the barristers (38% or 118 respondents) reported spending more time on pro bono in the previous 12 months than in the 12 months before. Eighteen percent (64 respondents) had done less pro bono and 30% (106 respondents) reported no change.

Chart 7 – More or less pro bono



4 Areas of practice

Usual practice

The areas of law most commonly nominated by respondents as areas of usual (not pro bono) practice were litigation (58%), company/commercial law (49%), administrative/constitutional law (44%) and criminal law (36%).

The least common areas of practice were incorporations law (9%), powers of attorney/guardianship (7%), housing and tenancy (5%) and social security law (5%).

Table 8 – Areas of practice

Area of law	No. of respondents	%
Litigation	206	58%
Company/commercial	175	49%
Administrative/constitutional	156	44%
Criminal law	129	36%
Property	110	31%
Insurance	84	24%
Wills/probate/estate	80	23%
Family law	76	21%
Bankruptcy	72	20%
Personal injury	71	20%
Debt	68	19%
Employment	67	19%
Banking/finance	66	19%
Other	65	18%
Construction	64	18%
Discrimination	60	17%
Immigration	53	15%
Domestic violence	52	15%
Consumer	48	14%
Environment	45	13%
Intellectual property	38	11%
Tax	36	10%
Incorporations	32	9%
Powers of attorney/guardianship	26	7%
Housing/tenancy	18	5%
Social security	17	5%

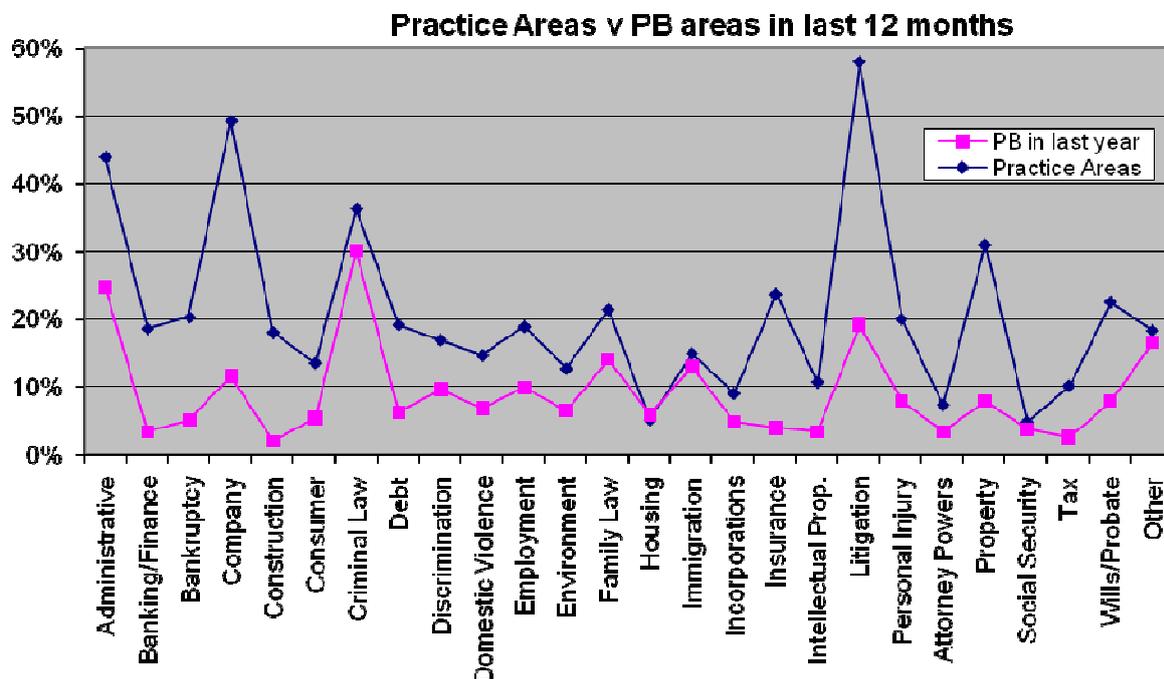
Pro bono practice

The main areas of pro bono practice to emerge from the survey did not parallel barristers' main areas of normal practice. The area of law in which the greatest percentage (31%) of barristers offered pro bono work was criminal law. This was followed by administrative/constitutional law (25%), then litigation (19%) and family law (15%). These figures reverse the areas of usual practice for barristers and perhaps reflect the level of demand for criminal law work, presumably largely where Legal Aid is not available.

Table 9 – Areas of pro bono practice

Area of law	No. of respondents	%
Criminal law	107	30%
Administrative/constitutional law	88	25%
Litigation	68	19%
Other	59	17%
Family law	50	14%
Immigration	46	13%
Company/commercial	41	12%
Employment	35	10%
Discrimination	34	10%
Personal injury	28	8%
Property	28	8%
Wills/probate/estate	28	8%
Domestic violence	24	7%
Environment	23	6%
Debt	22	6%
Housing/tenancy	21	6%
Consumer	19	5%
Bankruptcy	18	5%
Incorporations	17	5%
Insurance	14	4%
Social security	13	4%
Banking/finance	12	3%
Intellectual property	12	3%
Powers of attorney/guardianship	12	3%
Tax	9	3%
Construction	7	2%

Chart 8 – Pro bono practice v normal practice



5 *What type of pro bono work is done*

Respondents were asked: ‘Which of the following pro bono legal work have you done in the last 12 months?’ The responses demonstrated a range of legal work spread across advice, representation, drafting documents and providing written advice.

Table 10 – Types of pro bono

Type of pro bono	No. of respondents	%
Provide verbal advice	265	75%
Representation before a court or a tribunal	231	65%
Drafting of documents	199	56%
Provide written advice	173	49%
Negotiation	106	30%
Mediation	47	13%
Other	21	6%

In addition, 30% of barristers were involved in negotiation, 13% in mediation and 6% nominated ‘other’ for type of pro bono work, including preparing submissions, writing a guide to guardianship for a community centre and acting as a tribunal member.

6 *Basis on which pro bono work is done*

Paid and unpaid pro bono work

Eighty-two percent of respondents did pro bono work on a free basis. Thirty percent undertook work for a substantially reduced fee. Obviously some barristers did both.

Table 11 – Paid and unpaid pro bono

Pro bono for...	No. of respondents	%
For free	290	82%
At a substantially reduced fee	105	30%
Other	37	10%

Across all States and Territories, respondents took on more cases for free than for a reduced fee, with the ‘reduced fee’ option being the highest in South Australia. Fifty-two percent of respondents in South Australia, reported doing pro bono work for a reduced fee whilst 76% reported doing pro bono work for free (obviously respondents were able to choose both options). By contrast, in New South Wales and Queensland, 29% of respondents reported taking on cases for a reduced fee, whilst 82% and 81% of respondents, respectively, took on pro bono cases for free. In Victoria, 25% of respondents reported doing pro bono work for a reduced fee, 83% reported doing pro bono work for free.

7 *Volunteering*

Of the 28% of barristers who had volunteered legal assistance at a community organisation, the majority (16% of all respondents) had worked with a community legal centre (CLC), the others with other not-for-profits (10%) and 2% at ‘other’ organisations which included the Anglican Diocese of Perth, Public Interest Law Clearing House (PILCH), the Chinese Association, Office of Public Advocate and a cycling organisation.

. Table 12 - Volunteering

Volunteered at a community organisation	No. of respondents	%
Yes	99	28%
No	212	60%
Empty responses (did not do pro bono)	44	12%
Total	355	100%

8 The recipients of pro bono work

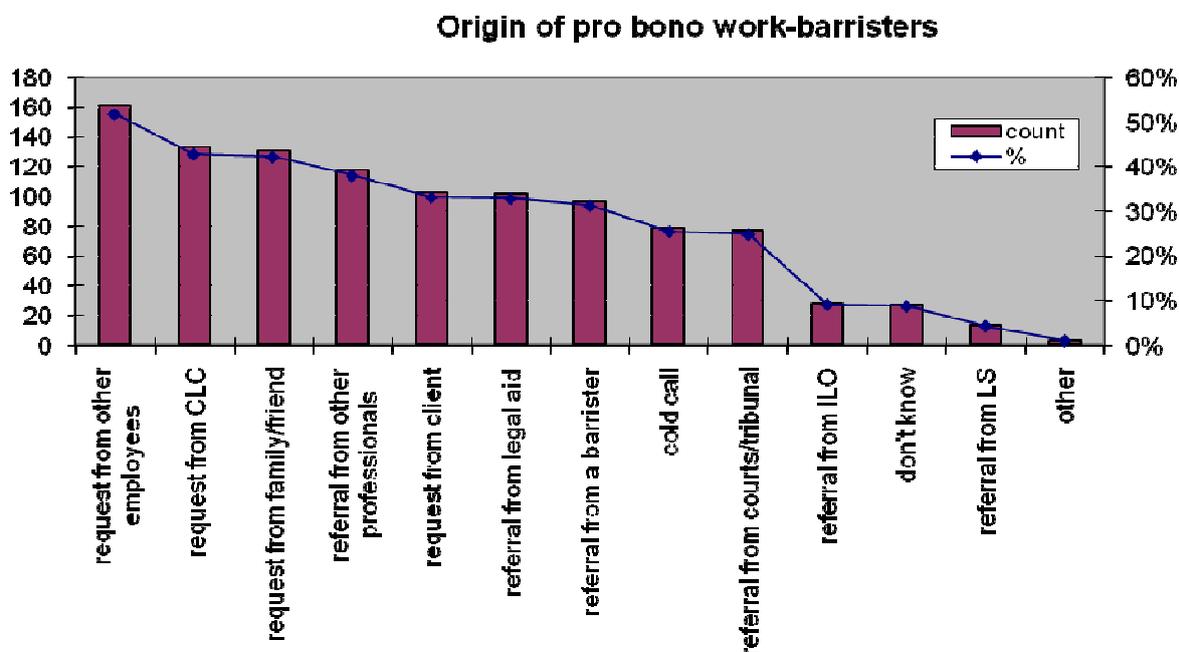
Barristers reported that 74% of their pro bono work was for individuals, 31% for CLCs and 32% for other not-for-profits. Obviously, some assisted more than one type of recipient.

9 Sources of referrals

The single biggest source of pro bono referrals (45%) to barristers was in the form of direct request from solicitors. This was followed by referrals from community organisations (38%), direct requests from families and friends (37%) and then, referrals from bar legal assistance schemes (33%). Other sources were direct requests from clients (29%), and referrals from clearing houses (29%),¹¹ from other barristers (27%) and from courts and tribunals (21%). Just 8% of referrals came from Indigenous Legal Organisations ('ILOs').

Almost 40% of barristers were listed on bar pro bono schemes, 31% were on clearing house lists and 22% were on court scheme lists. Over half of the respondents had never received a referral from their Bar legal assistance scheme. Just fewer than 4% of barristers received three quarters of their pro bono work from their Bar's legal assistance scheme.

Chart 9 – sources of referrals



¹¹ Not all State Bar Associations have a legal assistance scheme or a public interest law clearing house. The State-by-State results provide a better picture. They can be found in the appendices of this Report.

10 Record keeping

Fewer than half of the barristers surveyed (42%) kept formal records of their pro bono work. This is a reflection of inherent nature of being a barrister and a sole practitioner. Barristers have no time-keeping and reporting requirements, and therefore no actual need to record time spent on non-billable matters.

11 Legal Aid

Of the barrister respondents, 43% had done Legal Aid work in the previous 12 months. Eleven percent of respondents reported spending 0-5% of their time on legally aided clients. Eight percent of respondents reported spending 6-10 % of their time on legally aided clients. Four percent reported 11-20% of their time being taken up by Legal Aid work. A further 10% had spent 21-50% of their time on legally aided clients, and another 10% more than 50% of their time doing Legal Aid work.

12 Barriers to pro bono legal work

Barristers responded to the question: ‘What gets in the way of you doing pro bono legal work?’ with the first choice answer of: ‘lack of time’.

The second most named reason was lack of a solicitor to assist with a matter. This was nominated by 43% of the respondents and ‘insufficient experience in the relevant area of law’ was nominated by 20%.

Almost 14% of the respondents mentioned the cost of disbursements as a barrier to undertaking pro bono work. Another 14% mentioned conflict of interest with fee-paying clients. 14% also mentioned that they felt no constraints to their undertaking pro bono work.

When asked what would encourage them to do more pro bono work, the highest response (34%) was ‘nothing’. Presumably these barristers felt that they had reached their pro bono limit. Just over a quarter of the barristers said that the availability of a wide range of pro bono opportunities would encourage them to do more work and just under a quarter mentioned that greater visibility and more recognition for pro bono work would assist. Some respondents (18%) nominated clearer support from senior members of the Bar and about the same percentage nominated training in areas that are common to pro bono matters, such as

housing and debt. Under the category of ‘Other’, several respondents indicated that the availability of solicitor support in pro bono matters would encourage them to do more pro bono work, highlighting a key barrier to pro bono on the part of barristers. Respondents mentioned CLE points being awarded and tax incentives for doing pro bono work.

Table 13 – Encouragement to pro bono

Encouragement	No. of respondents	%
Nothing	120	34%
A wide range of pro bono opportunities being made available	94	26%
More recognition and visibility	85	24%
Other	80	23%
Clearer support for pro bono from senior members of the Bar	65	18%
Training in areas of law common to pro bono matters	61	17%

Attitudes and values to pro bono and to Legal Aid

Respondents were asked if they thought that lawyers should do pro bono work. Ninety-two percent replied affirmatively. The top two reasons for this were ‘helping the disadvantaged and marginalised’ (76%) and ‘a sense of professional responsibility’ (63%). Only 17% mentioned ‘personal satisfaction from providing the service’ and only one of the total number of respondents gave as a reason that ‘it may lead to paid work’.

Aspirational targets

All respondents were asked if they were aware of the National Pro Bono Centre Aspirational Target (‘the Target’) of 35 hours pro bono per lawyer per year. Only 18% were aware of the Target.

The Centre sent pamphlets about the National Pro Bono Aspirational Target to each Bar Association in Australia for distribution to their members prior to the survey being conducted.

Part 2: Issues

There were many responses to the survey questions regarding Legal Aid as well as to the last survey question: ‘Is there anything else that you think would be useful for us to know about your pro bono work?’

Comments have been grouped into:

- General Policy concerns
- Practice issues
- The role of government
- Attitudes to Legal Aid

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.

Below are some typical responses selected from each State and Territory. All the comments made by barristers and responses to open-ended questions about attitudes to Legal Aid and pro bono can be found on a state-by-state basis in the appendices of this report

GENERAL POLICY CONCERNS

Definition of pro bono legal work

The survey adopted a definition of ‘pro bono legal work’ (see Appendix x) 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. I sit on several statutory boards and committees where I get paid minute amounts for lots of hours of work – I am the only lawyer on them. I don’t count this as pro bono

for the purposes of this survey but it would easily add another 120-150 hours per year.
(WA)

- ii. Lawyers can contribute to the community in ways beyond your definition of pro bono. I served as a volunteer and on the Boards of Legal Services for 10 years and then for 4 years on the local primary school board. I think I actually made more contribution on the primary council dealing with quasi legal issues there. What has always motivated me is legal reform; not doing the legal work government should pay for in any event.
(VIC)
- iii. I often do things that I consider are giving back to the profession and the community that do not meet your criteria for pro bono work, and which I consider are an adequate substitute for pro bono work. For example, mentoring law students, speaking to students, presenting seminars, acting on the board of an organisation for disabled children, contributing to the Bar Association's activities. Nearly all Barristers, myself included, often reduce fees in circumstances of particular cases because that seems the right thing to do (for example, small claims, individuals involved of moderate means) – but that never seems to rate mention. (QLD)

Mandatory or voluntary pro bono and targets

- i. The Bar could make it a requirement of having a practising certificate that each barrister does a certain number of hours of pro bono work every year – just as we have to do a certain amount of CPD hours every year. (NSW)
- ii. Yes it is extremely hard for one to say just 35 hours – as when you get into a case it is a lot more than that – when you regularise it, it loses attractiveness because you HAVE to do it not because you want to. (VIC)
- iii. I would prefer to see emphasis on the role of a professional to use their knowledge and abilities to assist others and so from that to encourage all the duties of a professional including pro bono. There is something inconsistent about targets to do something which should come from an internal acceptance of an obligation of a professional but then as we are on the verge of becoming simply businesses, the next

thing will be compulsory pro bono as a part of a business vision or profile or for good marketing! I see pro bono work as my professional duty – non-regulated and entirely up to me. (SA)

- iv. It should be left to the individual, not institutionalised. (VIC)
- v. I would find it a disincentive to continue doing the work if government imposed a pro bono obligation upon practitioners. (VIC)
- vi. Pro bono should be made compulsory for larger sized firms with the resources and staff available to assist. It is a great opportunity for junior staff to be mentored in what tends to be a ‘hands on’ approach to litigation in particular. (QLD)
- vii. One week’s pro bono work should be compulsory for all practitioners in their first year. It will provide an insight into other people’s lives, remove the ‘fear factor’ of disadvantaged people and provide a useful contribution to a real problem. (NSW)

Rationale and motivation

- i. I once appeared in, and won, an eight week murder trial without any fee. The client was impecunious, and was not being appropriately looked after by Legal Aid, who seemed to think that his case was hopeless, and that therefore he did not deserve to be provided with appropriate representation. It was decided to dispense with the services of Legal Aid, and a solicitor and myself and a junior barrister all appeared without fee. It was about a total of 10 weeks’ worth of work. (VIC)
- ii. I do think that lawyers benefit themselves and the community from pro bono work but they should not be forced to perform it. I enjoy my pro bono work and especially my committee work...it keeps me in touch with a variety of people in the community whom I would not otherwise mix with. (VIC)
- iii. As a junior at the Bar, it is difficult getting time to do pro bono legal work, and often the matters are just as complex and time consuming as paid work. Acting for anyone who stands to lose something important to them takes an emotional toll, as well as the financial one you bear when you are not getting paid. (SA)
- iv. The ‘work’ is its own reward. Most lawyers who do it feel the same way. (SA)

- v. I have always practised on the basis that law is a profession not a business. Because of the privileges that lawyers enjoy, moral and professional obligations exist to the community at large. These are in addition to the obligation to the courts and clients. The professional person ought to regard such obligations as having priority, within reason, over personal interest. The administration of justice as an institution depends on public confidence. That confidence is likely to be preserved if justice is accessible to all. Pro bono work is the most efficient way of delivering that access. (WA)
- vi. One should never under-estimate the sense of personal satisfaction from doing something out of altruism. It is very rewarding. A thank you, is all the reward and means a lot. (TAS)
- vii. The law is a profession. It is not a philanthropist's society. Those that can afford charity should give it and those that cannot should not. But even that does not properly define the issue. (QLD)
- viii. I have derived more satisfaction from assisting on pro bono matters than probably any paid retainer commercial work. I was especially pleased that a disabled woman I recently assisted via a community legal centre was able to resolve her dispute with her mortgagee bank and able to keep her house on the strength of my written advice and my representation on her behalf. I am determined to seek out and make myself known for further pro bono opportunities in the future. (VIC)

Recognition and visibility

- i. There is an enormous amount of unrecognised pro bono work performed by private practitioners every day which is done without fanfare and recognition. The trend of big firms promoting themselves through placement of junior solicitors in pro bono centres is useful but verging on cynical. The recognition of professional responsibility and the place occupied by professions in the community (at least historically) would be a good step forward. So too would recognition of that fact by government instead of the ceaseless political bagging of professions. (NSW)
- ii. I believe that all lawyers should do some pro bono work. I am certain all Victorian barristers do. The problem is that to some extent in a competitive and yet collegiate

atmosphere success has tended to be measured by financial success. Pro bono work has, until recently, been perceived as inconsistent with the image of success which lawyers strive to project. In recent years, however, the public work performed by such high profile lawyers as Julian Burnside QC and Peter Hayes QC has meant that doing pro bono work has become associated with the most successful lawyers. A number of well known firms like Herbert Geer & Rundle who were involved in the Gunns litigation has meant that lawyers are no longer embarrassed to disclose to their fellow lawyers that they do provide pro bono services. (VIC)

- iii. There is no recognition for barristers who do pro bono work. (VIC)
- iv. Whilst it is undesirable that individuals receive publicity for their pro bono work it would assist if the profession received the public acknowledgement. This would serve to enhance the public perception of the profession. (NSW)
- v. Since such work usually reflects positively on the profession (which is usually seen as money-hungry and selfish), those doing pro bono work should receive formal recognition. For example no-one should be appointed Senior Counsel without having done substantial and consistent pro bono work over at least 5 years and must undertake to do some thereafter. It is in the long-term interest of the profession and the justice system for such work to be done and be acknowledged. (NSW)
- vi. I avoid pro bono schemes like the plague – they seem to attract publicity-seeking self-aggrandising barristers who are more interested in recognition of their service than the giving of assistance to the disadvantaged. More than enough pro bono work finds me without such schemes. (VIC)

Pro bono and genuine need

- i. Many clients who do not pay for legal work do not appreciate it. If they have to pay, (even a small amount) then that attitude changes immediately. (VIC)
- ii. I became somewhat disillusioned by feeling that many of the clients were not bona fide disadvantaged but, in fact, were canny and manipulative of the system. (NSW)

- iii. There is a large pool of clients missing out on legal assistance. Almost none of my pro bono work comes through organised referrals. (VIC)
- iv. You have to make sure the client has a good claim. Sometimes people try to use lawyers to settle personal grudges. (VIC)
- v. I have at times been quite frustrated that a law clearing house has not screened out matters which are unmeritorious or where the client is well able to afford legal representation. (VIC)

Pro bono and other professions

- i. It is objectionable that there is the expectation that we should give away for free what we do for a living. Go and ask a doctor or a plumber to do work for free and see what reception you get. (NSW)
- ii. There is only so much legal practitioners can do – other professions are not expected to give back in the way we are. (VIC)

PRACTICE ISSUES

Issues with courts in pro bono matters

- i. I find the attitude of the court difficult. I was the sole representative of my client, the other side was represented by a silk and a ‘big 6’ law firm - the court held my client to the same level, i.e. filing affidavits a year before trial and refusing to allow a small later one filed a week before trial. (VIC)
- ii. There does need to be some greater support within the profession and the courts for difficult situations that pro bono lawyers can find themselves in. I have had a pro bono client referred to me by the court who turned out to have some mental health problems which became apparent only after taking on the brief, which placed me in a very difficult ethical situation which culminated with her sending defamatory emails about me to the judicial officers of the court and to others. Both the Bar ethics committee and, unfortunately, the Court registrars who had referred the brief were not

particularly understanding of my situation. The Court registrars were unwilling, even though they were aware of the client's conduct and of her long history of causing difficulty for pro bono counsel, to have me released and wanted me to get released by the Bar ethics committee. The ethics committee then first criticised me for taking a direct access brief without the ethics' committee's authorisation - even though it came to me as a direct referral pursuant to a court order - and did not make it very easy for me to return the brief. That client went on to make much more serious threats against others in the legal system. There need to be some safeguards introduced to ensure that, while pro bono clients have appropriate safeguards to ensure continuing representation at a high standard, pro bono lawyers are not placed in a position of being forced to continue to deal with an unstable client, without any support from the professional bodies who encourage them to do pro bono work in the first place. (VIC)

Facilitating pro bono

- i. I would find it useful if the AAT would establish something equivalent to the Federal Court Order 80 scheme in, say, social security area. (WA)
- ii. I wish to STRONGLY suggest that the major law publishers, particularly the online subscription services offered by CCH and Thomson/Butterworths e.g. Casebase and the various electronic manuals/texts on criminal law, family law, debt etc. be made available free of charge to lawyers who provide a substantial amount of pro bono legal work. (QLD)
- iii. It would lead to a better use of resources if it was all coordinated through one body and was better recognised. (QLD)
- iv. It needs to be easier to be registered for the Bar scheme. (ACT)
- v. I would probably do more if I had access to some of the firms that had designated pro bono schemes. (NSW)
- vi. Greater level of co-ordination and co-operation is necessary to assist the Bar Association and the profession to deliver a greater level of pro bono assistance. (QLD)

- vii. Mentoring junior members of the Bar in participating in pro bono work is something which I think is very important and perhaps could be encouraged more. My impression is that senior members of the Bar (the criminal Bar aside, who generally I think perform more than their fair share of this work) – especially in the commercial area – are under-represented in pro bono work and this has got to change. (VIC)
- viii. Feedback or requests for legal assistance from dedicated pro bono organisations would be desirable. (VIC)

Costs issues

- i. Particularly at the Bar, but also in private practice, often costs and overheads are such that it is prohibitive to undertake much pro bono work. (WA)
- ii. A big issue is the insurance because you have to be so careful and when a family law client cannot afford your services, or cannot get legal aid, (in my experience) they are often the most difficult clients which puts your insurance at risk and they are the ones who are more likely to make a complaint about you. (ACT)
- iii. My legal work all takes place at Downing Centre Local Criminal Court. I attend two days each week. It is the only legal work I do. I call myself a 'volunteer barrister'. I only keep paying bar fees, indemnity insurance and licence fees to do this legal work. I am an independent low income retired person and find some difficulty with having to keep up with the costs I have to meet to be able to be a volunteer. (NSW)
- iv. If there were a source for disbursements, this would relieve the problem of totally funding pro bono work from one's own resources. (VIC)
- v. Perhaps the Bar Associations could apply a levy on each practicing certificate renewal and could use the funds to partly compensate those barristers who accept Bar Association pro bono referrals. (NSW)

Other barriers to pro bono

- i. The ethical rules on appearing for clients in jurisdictions other than summary crime directly prevents people doing more work given that having to get an exemption is too time consuming and difficult. (VIC)
- ii. With the diversity of culture, there is a need to train pro bono practitioners to deal with multicultural issues. (VIC)
- iii. The absence of a solicitor exposes directly retained Counsel to the gravest risks under the new regime imposed by the Legal Profession Acts. (QLD)
- iv. There are restrictions on what barristers can and cannot do by way of direct briefs, which is most pro bono work, that inhibit barristers from accepting direct pro bono work. In the circumstances it may be more appropriate - unless such restrictions are withdrawn - for barristers who do pro bono work to be made known to solicitors who have also accepted pro bono instructions. (QLD)
- v. The new rules restricting what barristers may do (filing etc) actively hampers pro bono work. I won't do pro bono uninstructed but it creates impediments that need not exist. (QLD)
- vi. As a commercial barrister taking pro bono work for refugee applicants, I found the work particularly stressful both because of my lack of expertise in the area, the nature of the work, and the absence of an instructor to assist. (VIC)

THE ROLE OF GOVERNMENT

The role of government

- i. I am concerned that raising the profile of pro bono work and encouraging lawyers to do more of it the profession will allow the government to continue to fail to meet its responsibility of providing equal access to the legal system. (VIC)
- ii. I believe all legal practitioners should undertake at least some pro bono work per year. However, it appears governments are taking advantage of this by cutting funds to

- CLCs and Legal Aid. Quite simply, the justice system is failing our most vulnerable (those without money or suffering from mental illness) and it is exactly these people who need it most. (VIC)
- iii. I feel that it is often exploitative of very junior barristers, such as my readers, as solicitors rarely do much work on the files and tend to allocate their most junior employees who are of little assistance to the client or counsel. The need for barristers' pro bono work often arises because of lacunae in proper government funding. (VIC)
 - iv. There is a danger in the systemic under-funding of Legal Aid – which is that the profession will be deliberately used by government to pick up the slack as pro bono work. (VIC)
 - v. Pro bono schemes should not allow themselves to be used to relieve government of its responsibilities. (VIC)
 - vi. While I do quite a lot of pro bono work, and think that lawyers generally should participate, I am concerned at any development of the idea that providing legal assistance to those who cannot afford it is not principally a government responsibility. Access to justice should not be a matter of whether there is a volunteer lawyer with sufficient skills available at any given time. (VIC)
 - vii. One of the 3 key responsibilities of the state is to provide a justice system. For the state to use the present level of negative attitude in the community to the legal profession to take the focus from its failure to properly fund the justice system would be wrong. (VIC)
 - viii. I only support pro bono because the government underfunds access to justice. Some legal work does not get paid anyway; to ask lawyers to do more is not reasonable. (NSW)
 - ix. I think it is important not to let pro bono become a substitute for proper levels of Legal Aid. Those levels in Australia are woefully low in comparison to countries like the UK and the USA. Pro bono needs to be recognised as a stop gap measure which should only be resorted to in exceptional cases. (VIC)
 - x. It would be helpful if government followed the Model Litigant guidelines. (VIC)

- xii. It is imperative that the provision of pro bono services not be seen as or become a substitute for a properly funded Legal Aid system, particularly in core administration of justice areas such as criminal law. (QLD)

STATE ISSUES

Queensland

- i. I did a very complicated judicial review application for a prisoner who had been kept in solitary confinement for many years. Legal aid was not available, nor were the usual Aboriginal or prisoners legal services able or willing to provide assistance. He was a high profile and poorly regarded fellow in the press. I was led by a very senior Queens Counsel. None of us, including the solicitor on the record, were paid or had any prospect of being paid. We did not do it to be paid, and I make no complaint about that. I would estimate that services provided would cost about \$150-\$200k on the open market. It took a very big effort on all our parts, and although I regard it as my professional responsibility to do things like that, I am annoyed that the fellow had to rely on the charity of others to have his case put before the courts and the executive government held to account. On a positive note, I might say that the lawyers who acted pro bono brought a very different skill set to the case, and the fellow had his case prepared and presented in a first class way. There was no difference in how it was run from how it would have been run if he were paying privately for the whole thing. In such a time demanding case, it is only possible (given the opportunity and actual cost of acting pro bono instead of private clients) that such cases are taken infrequently. However, I think if the load were spread more evenly, significant contributions could be made by the profession.
- ii. Solicitors should be more proactive in seeking to retain barristers for pro bono work.
- iii. There is a need to provide a better connection between potential clients and barristers prepared to take on the work.

- iv. I tend to try to charge a nominal fee as I find clients are better motivated by contributing and I can assist more if simple costs like travel and parking, and phone and paperwork are covered.
- v. I am going to severely cut back since the government does not support the people in criminal defence and since the scales have not been increased I am now in a position where I can no longer afford to help as much as I used to.
- vi. It would lead to a better use of resources if it was all coordinated through one body and was better recognised.
- vii. The pro bono work I see is prepared by the litigant and becomes briefed at the 11th hour. A scheme should be available and promoted to assist in the preparation of pro bono matters so that the litigant is able to access the scheme from an early stage.

Victoria

- i. My website at the Victorian Bar has, for several years now, stated that I invite queries from solicitors in respect of pro bono work. I am told by PILCH that I am one of the only barristers in Victoria who is prepared to openly advertise in this manner.
- ii. There is no formal structure at the Victorian Bar for problems within the ranks of barristers. It seems to be done by word of mouth to stop embarrassment but perhaps we need a point of contact for personal problems.

New South Wales

- i. I have tried to make it known that I am available for pro bono criminal work with very little response.

ATTITUDES TO LEGAL AID

Respondents to the survey provided a wealth of responses to questions about Legal Aid. The vast majority (201 or 57%) of all respondents had not done any Legal Aid work in the last 12 months. Many were concerned about the funding level of Legal Aid as well as its bureaucratic nature. Respondents also had strong feelings about ‘no win, no fee’ work. ‘No win, no fee’ work raised concerns about conflicts of interest and about its suitability in the access to justice landscape.

Comments in this section have been presented under the following headings: Low fees and other constraints; Other concerns about Legal Aid; ‘No win, no fee’ work.. Here are some typical responses:

Concerns about Legal Aid fee rates and restrictions

- i. I don’t always agree with the allocation of Legal Aid funds or how they decide grants which can lead to a decision to do a matter pro bono. (ACT)
- ii. Legal Aid is grossly underfunded. Lawyers who do Legal Aid work in many respects are to an extent working pro bono if that definition includes a grossly reduced fee – many will not do Legal Aid work anymore because fees are so low. (ACT)
- iii. The availability of Legal Aid is so scant that it is largely an irrelevance. Further, the fees are so low as to make it more satisfying to either do the work for no fee or on a contingency basis. (NSW)
- iv. Too many constraints regarding decision making; having to justify fees.(NSW)
- v. Not enough money is available for preparation. I spent three full days preparing a brief only to have to settle it on the first day. (NSW)
- vi. Regarding Legal Aid: I would rather just act for no fees and no hassle. (NSW)
- vii. Low rate, but regular and quickly paid. (NSW)

- viii. The bureaucracy of Legal Aid is made up mainly by non-lawyers, and administrators with little or no legal knowledge, or experience in courts and court procedure. Because of budgetary restraints, and the lack of legal knowledge, assigned cases cannot be adequately prepared and run, whether they are defended matters or sentence hearings. Also, the level of funding to barrister practitioners is seriously inadequate. For example, a barrister doing 48 uninterrupted weeks of District Court work in NSW, and paying for chambers and overheads, nets less than a 1st year Legal Aid Solicitor. Whereas, a Public Defender, doing on average only about 30 weeks work in court in any year in NSW, grosses just under \$250,000. Completely inequitable, particularly as there is ever increasing reliance on the private Bar to accept work that Public Defenders are unable to do. (NSW)
- ix. Legal Aid should be regarded as part pro bono as it pays about one-third of common rates. (NSW)
- x. More government funds need to be allocated to Legal Aid and less of those funds need to be spent on a burgeoning and unproductive bureaucracy. (NSW)
- xi. Legal Aid might represent 60% of my time yet 20% of my fees. (NSW)
- xii. Full funding of Legal Aid is vital to democracy and a functioning criminal justice system. (NSW)
- xiii. The pay rate is uncommercial. Government displays anti-lawyer policies. I prefer to allocate the equivalent time to individuals/communities who appreciate and benefit from my efforts. (QLD)
- xiv. It is not possible to make a reasonable living doing Legal Aid work. I prefer to take on less better paid private work that I can do properly in the time I have and donate any free time to pro bono. Legal Aid also attempt to 'stiff' barristers for the work they do and spend more money disallowing their fees than in the fees they allow. (QLD)
- xv. The Legal Aid scale is at 40% of market value and has been for a decade so I would prefer to do free work of my choosing for deserving clients as a charitable community contribution than let irresponsible governments exploit me and underfund the justice system simply because there are no votes in criminal defence. By only doing better

- paid private work I can afford to do some free pro bono work and I am not supporting the government's exploitation of the criminal Bar. (QLD)
- xvi. Legal Aid rates for counsel desperately need increasing. As soon as my practice builds up I will probably refuse Legal Aid briefs if the rates don't improve. (QLD)
 - xvii. Legal Aid is appallingly funded. It is not possible to survive as counsel on the fees allowed by Legal Aid nor is the schedule of fees commensurate with the reward that should be expected of counsel's expertise. (QLD)
 - xviii. Whilst the certainty of payment is an attractive aspect of legally aided work, the fees paid are substantially less than my private fee paying work. Recent suggestions that barristers will have to negotiate with the solicitor as to how much of the Legal Aid funding is paid to him/her as their fee will likely result in a greater proportion on legally aided work being rejected because of the fee preferred. Per hour, the fee is abysmally below a reasonable rate of payment. (QLD)
 - xix. Legal Aid work is paid promptly once you are able to submit a tax invoice. However, the rule that tax invoices cannot be submitted until a matter had been completed means that there can be a delay of 12 months to two years between work and payment where you are briefed to draft initiating court documents. The rates of pay are significantly below market when compared to commercial rates of pay. However, within that, the appearance of fees themselves are not terribly much under. It is the lack of provision for preparation, written submissions or written advice, and the lack of recognition within the pay scale of seniority, which means that, particularly as you get more senior, the Legal Aid grant nowhere near matches ordinary remuneration. (QLD)
 - xx. Legal Aid fees are so low that they do not allow a person who receives only periodic Legal Aid briefs to meet their professional expenses. This results in more experienced barristers moving away from legal Aid work and the clients being represented by less experienced barristers, not always to their advantage. (QLD)
 - xxi. Legal Aid fees need to be higher. They are too low. It is an insult. (QLD)

- xxii. I prefer to do pro bono by choice, rather than be grossly underpaid by the government. (SA)
- xxiii. Legal Aid cost scales lag behind other scales in applying an appropriate rise in fees. The government attitude towards Legal Aid and the legal profession in general is a disgrace (especially in South Australia). Government funding for this area is half of what it should be. (SA)
- xxiv. When Legal Aid don't fund conferences, proofings, research or preparation, and the fee schedule even when you are in court is so low, I really couldn't afford to do more. (SA)
- xxv. The funding for Legal Aid matters is pitifully inadequate. Apart from that the insults heaped upon the Bar, which provides so much support for the entire criminal justice system to operate, from governments, politicians and the media generally itself is quite appalling. (SA)
- xxvi. The Legal Aid Commission has lost its original mandate. It has become a giant law firm that pays commercial salaries to its staff and low fees to outside lawyers. Furthermore, it does not provide the level of support that it should. The Legal Aid Commission should be dismantled in its current manifestation, and become a source of funding only to outside solicitors and counsel. (VIC)
- xxvii. Fees are shocking. Would prefer to do it for free than to be so insulted by low fees. (VIC)
- xxviii. The administration of Victoria Legal Aid is oppressively bureaucratic. (VIC)
- xxix. Enforced poverty for lawyers. (VIC)
- xxx. Legal Aid is inadequately funded in areas such as family law, meaning it is not attractive to private practice nor is it accessible to all who need to utilise it. (WA)
- xxxi. I would not do Legal Aid work. I understand the paperwork involved is horrendous. Also, I would prefer to do work at full rates or for free. Legal Aid rates are a significant discount on my usual rates – this discrepancy creates a gap in expectation. Client thinks I am being paid, I think I am really doing them a favour. Best steered clear of. (WA)

Other comments and concerns

- i. Legal Aid work would benefit from a consistent representative voice so that its importance is recognised in the same way that police and prosecution resourcing is valued. (ACT)
- ii. Legal Aid is often a source of injustice in civil matters where one party is legally aided but the other is not, particularly in family law matters. Those who don't work (and therefore qualify for Legal Aid) get Rolls Royce service, yet those that do work get nothing, but can't afford proper legal representation, with the effect that the unemployed get precedence over the workers. The only way to redress this is to provide a proper system for partial subsidisation of those who work but are not paid much. (NSW)
- iii. Legal Aid work is a little like smoking cigarettes, ultimately it undermines your practice and your health if a large proportion of your practice is consumed by it. (QLD)
- iv. Legal Aid (the organisation) and solicitors who practice in Legal Aid should be more ruthless in weeding out the matters that lack merit so more funding can be directed to meritorious matters. (SA)
- v. Legal Aid is not available to the extent it should be. (TAS)
- vi. Perhaps the legal profession should establish a pro bono foundation that is properly funded (by the government and the legal profession) and that would be staffed by experienced lawyers. For example, in the US, even Wall Street firms have pro bono sections doing nothing but such work and able lawyers can still be made partners. While PILCH is an admirable initiative through which lawyers in top firms have fulfilling rotations, it is totally inadequate to meet the community's needs because it relies on the charitable generosity of the legal profession which will vary depending on the demands on practitioners at any point in time – the right practitioner may not be available when needed. (VIC)
- vii. I am on three of their panels and have yet to be called as those making assignments have their favourites. It is an extremely disappointing situation. (WA)

- viii. Legal Aid should be extended, e.g. to certain defamation cases where public interest/free speech is an issue. Legal Aid fees should be increased. (WA)

Comments about “no win, no fee” work

- i. I am not keen on “no win, no fee” as I believe it is an impediment to alternative dispute resolution and out of court settlement. (ACT)
- ii. I accept “no win, no fee” work at my discretion after assessing the prospects and merits of the case. Usually I would decline to act if I rate the prospects of success at less than 70%. I will take on cases with lower prospects if the client is at risk of suffering substantial injustice. (NSW)
- iii. I do regard this type of case to be pro bono of a kind. These days, success even in personal injury cases of a deserving, can be too speculative to amount to give rise to a commercial expectation. Moreover, long trials in difficult cases have an effect on your cash flow. (NSW)
- iv. I personally do not take on “no win, no fee” work. If it is a matter that I think should be done on a pro bono basis I will take it on without charge. Otherwise I do not take it on. (NT)
- v. Speculative (“no win, no fee”) work like all private work is accompanied by the difficulties and delays in receiving payment which sometimes makes it less attractive than it initially seems. (QLD)
- vi. I disagree with “no win, no fee” and therefore do not participate in such a scheme. (QLD)
- vii. Not really interested in carrying out such work. Will do some disputes on a ‘spec’ basis but those are not generally very speculative so it is more like a deferred fee. (QLD)
- viii. I would never do “no win, no fee”. It compromises you too much in the case. (QLD)
- ix. “No win, no fee” work is not helpful as it encourages unmeritorious claims. (SA)

- x. I think they are both (Legal Aid and “no win, no fee”) necessary schemes, because everyone should be represented by someone competent, irrespective of their relative wealth. (TAS)
- xi. I would not do “no win, no fee”. I would rather do it for nothing, instead. (VIC)
- xii. I find that “no win, no fee” is not pro bono; it is speculative and simply lawyers being entrepreneurial and it is commercial. (VIC)
- xiii. I have done “no win, no fee” work previously, and found: 1) it was the first work I would neglect when things got very busy; 2) to justify doing it I had to increase my hourly rate; 3) the reality is I will only run cases I think I will win anyway, otherwise my advice is to settle so there is little difference to my ordinary cases. (VIC)
- xiv. “No win, no fee” work and lawyers doing pro bono work should not be used by Governments as an excuse for not funding Legal Aid properly. (VIC)
- xv. I do not support “no win, no fee” as it puts counsel in conflict situation with client. (WA)
- xvi. I don’t like “no win, no fee” as it gives clients unrealistic expectations. (WA)
- xvii. There needs to be clarification about the terms in Western Australia under which a barrister can quote a “no win, no fee”. (WA)

Part 3: Survey questionnaire

National Survey of Pro Bono Legal Work (Barristers)

Instructions for Completing this Survey

This survey is anonymous, and should only take 10-15 minutes to complete.

It is easier for us to collate the information if the survey is completed online. If you would like to complete it online, please go to

<http://www.nationalprobono.org.au/survey/barsurvey.html>

and click on the name of your state.

However, if you prefer a hard copy, you can download the survey from the same site, print, complete and post it to us at:

Survey
National Pro Bono Resource Centre
The Law Building, University of NSW
Sydney NSW 2052

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. Not for 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**? A **glossary of terms** is provided at the back of this survey (for **terms underlined in bold** in this survey).

This survey has been developed by the National Pro Bono Resource Centre and Dr. Belinda Carpenter, Faculty of Law, QUT with the support of the Queensland Law Society. It is being administered by the National Pro Bono Resource Centre and any queries should be directed to the Centre at survey@nationalprobono.org.au or (02) 9385 7381.

Competition

As a measure of our thanks for taking part in this survey, 6 bottles of Wirra Wirra Church Block 2004 fine red wine will be given as a prize to the respondent in your state or territory who provides the best answer to the competition question (What is a collective noun for a group of pro bono lawyers?).

If you wish to participate in this competition, you must provide your contact details at the end of this survey, so that we can contact you if you win. This information will be kept quite separate from your survey responses.

All respondents to this survey are eligible to take part in the competition and, if interested, you must provide a positive indication of intention to participate by answering the question below.

The judging will take place within one month of the closing date of the survey, and the winner will be notified by email within 48 hours of the judging. The judges will be drawn from the National Pro Bono Resource Centre, and the judges' decision is final.

Unless you prefer otherwise, the names of each state and territory winner will also be published on the website of the National Pro Bono Resource Centre at www.nationalprobono.org.au .

Do you wish to take part in this competition?

- Yes
- No

Please indicate the state or territory where your chambers are located:

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

Section 1 - About you

1. How long have you been admitted to practice?

- Less than 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 11-20 years
- 21-30 years
- Over 30 years

2. How long have you been at the Bar?

- Less than 1 year
- 1-2 years
- 3-5 years
- 6-10 years
- 11-20 years
- 21-30 years
- Over 30 years

3. How old are you?

- Under 26
- 26-30
- 31-40
- 41-50
- 51-60
- 61 or over

4. Are you...?

- Male
- Female

Section 2 - About your job

1. What is your position? *[Tick one response only.]*

- Queen's Counsel
- Senior Counsel
- Senior Junior Counsel
- Junior Counsel
- Reader
- Other (please describe) _____

2. Where are your chambers located? *[Tick one response only.]*

- Capital city CBD
- Capital city suburb
- Regional city or area
- Rural area
- Remote area

3. In which area(s) do you practise? *[Tick all that apply.]*

- Administrative / Constitutional
- Banking/Finance
- Bankruptcy
- Company / Commercial
- Construction
- Consumer
- Criminal Law
- Debt
- Discrimination
- Domestic Violence
- Employment
- Environment
- Family Law
- Housing / Tenancy
- Immigration
- Incorporations
- Insurance
- Intellectual Property
- Litigation

- Personal Injury
- Powers of Attorney / Guardianship
- Property
- Social Security
- Tax
- Wills / Probate / Estate
- Other (please describe)_____

Section 3 - Your Participation

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

- No →
- Yes →

2. In which of the following areas of law have you done pro bono legal work in the last 12 months? *[Tick all that apply.]*

- Administrative / Constitutional
- Banking/Finance
- Bankruptcy
- Company / Commercial
- Construction
- Consumer
- Criminal Law
- Debt
- Discrimination
- Domestic Violence
- Employment
- Environment
- Family Law
- Housing / Tenancy
- Immigration
- Incorporations
- Insurance
- Intellectual Property
- Litigation
- Personal Injury
- Powers of Attorney / Guardianship
- Property
- Social Security
- Tax
- Wills / Probate / Estate
- Other (please describe)_____

→ Please go to section 4, on page 6.

3. Have you ever done pro bono legal work?

- No, I have never done pro bono legal work
- Yes, I have done pro bono legal work previously

→ Please go to section 8 on page 11.

Section 4 - Types of pro bono legal work

1. Which of the following **pro bono legal work** have you done in the past 12 months? [*Tick all that apply on the table below*]

2. Please 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).

Pro bono legal work	Tick (Q1)	Rank (Q2)
Provide verbal advice		
Provide written advice		
Representation before a court or tribunal		
Drafting of documents		
Negotiation		
Mediation		
Other (please describe) _____ _____		

3. For whom was this pro bono legal work done? *[Tick all that apply on the table below]*

4. Please rank the client groups according to the amount of time you have spent on each one (with 1 being the client group on which you have spent most time).

Pro bono legal work clients	Tick (Q3)	Rank (Q4)
Individuals		
Community legal organisations		
Other Not for Profit organisations		
Other (please describe) _____ _____		

5. Have you volunteered legal assistance at a community organisation in the past 12 months?

Yes → please go to question 6 on page 7

No → please go to section 5 on page 8

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

- A community legal centre or service
 - A not for profit organisation
 - Other (please describe)_____
-

Section 5 - Practice Issues

1. Do you keep any record of the **pro bono legal work** that you are doing?

- Yes
- No

2. When you take on cases on a pro bono basis, do you take them on (mark all that apply)

- For free
 - At a substantially reduced fee
 - Other (please describe)_____
-
-
-
-
-
-
-
-

Section 6 - 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?

- None
- 5 hours or less
- 6-10 hours
- 11-20 hours
- 21-30 hours
- 31-40 hours
- 41-50 hours
- 51-70 hours
- 71-90 hours
- More than 90 hours, please specify
- Don't know

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

- More
- Less
- No change
- Don't know

3. To what extent are you satisfied, or not satisfied, with the amount of pro bono work that you have done in the last 12 months?

Section 7 - Sources of pro bono work

1. Is your name on referral lists kept by any of the following? *[Tick all that apply.]*

- Clearing house**
- Bar pro bono scheme
- Court pro bono scheme
- None of the above
- Don't know
- Other (please describe) _____

2. What is the source of new pro bono matters? *[Tick all that apply on the table below].*

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

Sources of Pro Bono work	Tick (Q2)	Rank (Q3)
Direct requests to you from a family member or friend		
Direct requests to you from existing or past clients		
Direct request to you (cold call) from a potential client		
Direct request to you from a solicitor		
Referral from another barrister		
Referral from the bar legal assistance scheme (if any)		
Referral from the Law Society		
Referral from courts, tribunals or complaint handling bodies		
Referral from a <u>clearing house</u> (if any)		
Referral by a community organisation		
Referral from an Indigenous Legal Organisation		
Don't know		

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

- 0%
- 1-25%
- 26-50%
- 51-75%
- 76-100%
- Other (please describe)_____

Section 8 – Constraints / Encouragement to Pro Bono

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

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

Constraints	Tick (Q1)	Rank (Q2)
Lack of time		
Concern about conflict of interest with fee paying clients		
The cost of disbursements involved		
Lack of information about opportunities / Don't know how to find clients		
Insurance issues		
Lack of a solicitor to assist with the matter		
Insufficient expertise in relevant areas of law		
Not interested		
It is the government's responsibility to provide adequate resources		
No constraints		
Other (please describe)		

3. What would encourage you to do more pro bono work? *[Tick all that apply on the table 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).

Encouragement	Tick (Q3)	Rank (Q4)
Clearer support for pro bono work from senior members of the Bar		
Training in areas of law that are common to pro bono matters (eg housing and debt)		
A wide range of pro bono opportunities being made available to me		
More recognition and visibility of the work in general		
Nothing		
Other (please describe) <hr/> <hr/> <hr/>		

Section 9 - Legal Aid and “no win, no fee” work

*Legal Aid and “no win, no fee” work are not considered to be **pro bono legal work** for the purposes of this survey.*

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

Yes →

No →

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

- 0-5%
- 6-10%
- 11-20%
- 21-50%
- Over 50% (please specify

→

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

4. Do you have any comments that you would like to make about Legal Aid or “no win, no fee” work?

Section 10 - Attitudes to pro bono legal work

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

Yes →

No →

2. Tick the top two reasons why lawyers should do pro bono legal work.

- To broaden their legal skills and experience
- It may lead to paid work
- To help people who are socially disadvantaged or marginalised
- Provides a positive public profile for chambers and / or individual lawyers
- Personal satisfaction from providing the service
- A sense of professional responsibility
- To put something back into the profession
- Other (please describe) _____

If you are interested in competing for the 6 bottles of Wirra Wirra Church Block 2004 premium red wine, please respond to the following question and provide your name, phone number & email address below. This will be kept separate from your survey responses and used only for the purposes of this competition.

What is a collective noun for a group of pro bono lawyers? [Sample answer: a pauper of pro bono lawyers]

Answer:

Name:

Phone Number:

Email Address:

Glossary of Terms

"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. Not for 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:

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. Legal assistance provided under a grant of legal assistance from Legal Aid;
3. Contingency fee arrangements or other speculative work which is undertaken with a commercial expectation of a fee,
4. The sponsorship of cultural and sporting events, work undertaken for business development and other marketing opportunities; or
5. Time spent by lawyers sitting on the board of a community organisation (including a community legal centre) or a charity.

"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

“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

“Transactional work”

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