



NATIONAL PRO BONO RESOURCE CENTRE

National Law Firm Pro Bono Survey

Australian Firms With More Than Fifty Lawyers

Final Report

December 2010

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Those law firm pro bono partners, coordinators and directors who provided valuable input to the survey questionnaire

Staff at NPBRC, especially Maria Twomey, Daniel Jacobs, John Corker and intern Siew Cooper

I Background

This is the final report ('the Report') of responses to the National Law Firm Pro Bono Survey ('the Survey'), conducted by the National Pro Bono Resource Centre ('the Centre') in July 2010. This Report follows on from the Interim Survey Report, which was prepared for the third Access to Justice and Pro Bono Conference, held in Brisbane 27-28 August 2010.

The survey targeted all 39 Australian law firms with more than 50 full time equivalent ('FTE') lawyers¹, of which 29 responded. The sample includes nine of the 10 largest Australian firms by fee-earner size, and 6 mid-sized firms², according to the Australian Financial Review survey of Australian law firms as at the end of the 2010 financial year.³ Altogether, the respondent firms had 10,227.3 full time equivalent lawyers in Australia, representing approximately 18% of the Australian legal profession.⁴

This final report contains a comprehensive analysis of all the data collected in the survey. The Report provides a picture of pro bono work in Australia in the wake of the Global Financial Crisis ('the GFC'). Data was collected of pro bono work done in the 2009-2010 financial year, although one firm based their responses on data available at the end of 2009.

¹ With the exception of two highly specialised firms who informed the Centre prior to the survey that they do not wish to participate.

² See Table 1 for details of size of firm, p. 14 of this report

³ Australian Financial Review Partnership Survey June 2010

⁴ As at May 2010, there were approximately 56,000 legal practitioners in Australia: see speech given by Glenn Ferguson, President, Law Council of Australia, at the 5th Annual IBA Bar Leaders' Conference, Copenhagen (27 May 2010) available at http://www.lawcouncil.asn.au/shadomx/apps/fms/fmsdownload.cfm?file_uuid=61FAC42A-D4A6-9B6D-7AC7-3BD9078C0DA0&siteName=lca

The survey sought information on the amount of pro bono work done, budgets, targets and participation rates. It also contained questions regarding the coordination, publicisation and promotion of pro bono, as well as the areas of law where pro bono work is, and is not, provided. The respondents were also asked questions regarding barriers to pro bono, the National Pro Bono Aspirational Target ('the Target'), Legal Aid work, disbursements, the Commonwealth Legal Services Directions, and about pro bono work done with an International and/or Regional, Rural or Remote focus, if any. The analysis of the data is reported under the following headings:

- 4.1 Respondent firms
- 4.2 Coordination of pro bono work and pro bono policies
- 4.3 Amount of pro bono work
- 4.4 Participation rates
- 4.5 Budgets, targets, counting and crediting pro bono work
- 4.6 The National Pro Bono Aspirational Target
- 4.7 Sources of pro bono work (referrals)
- 4.8 Areas of law and types of matters
- 4.9 Non-legal assistance
- 4.10 Pro bono and community service programs
- 4.11 Legal aid work
- 4.12 Disbursements
- 4.13 Constraints to pro bono work
- 4.14 Training
- 4.15 Promotion and publicisation of pro bono work
- 4.16 Pro bono work in regional, rural and remote (RRR) areas
- 4.17 International pro bono work
- 4.18 Evaluating pro bono work
- 4.19 Commonwealth Tender Scheme
- 4.20 Other information

II Methodology

This is the second National Law Firm Pro Bono Survey conducted by the Centre. The first survey was conducted in 2008, and reported on the pro bono legal work of 25 large Australian law firms. The survey questionnaire was developed by the Centre to obtain a picture of pro bono work in Australia from the perspective of large and mid-size⁵ law firms and to elicit information about practice and policy issues.⁶ The survey is conducted every two years in order to provide a longitudinal picture of the pro bono work done by law firms in Australia.

After the first survey in 2008, the Centre conducted an internal and external evaluation of the survey and amended the original survey questionnaire to obtain more accurate data. It is for this reason that not all responses are comparable to the data obtained in 2008. Where possible, data from the first survey has been highlighted throughout the report in separate text boxes.

The survey was conducted online using Key Survey software provided to the Centre by the University of New South Wales.

Targeted law firms were approached by a letter from the Centre informing them of the survey and encouraging them to participate. E-mails were then sent to nominated pro bono contacts in each firm providing a link to the online survey. Those firms that are signatories to the Aspirational Target had an opportunity to identify themselves in the survey and to report on the Aspirational Target in conjunction with the survey. These survey responses are treated as confidential and all other responses remain anonymous.

⁵ Respondent firms had between 50 and 1000 full-time equivalent lawyers on staff. For details on size of firms see p.14

⁶ The questionnaire was also sent to a number of law firm pro bono coordinators for comment. The Centre wishes to thank all those who provided valuable feedback.

III Report Summary

Below is a brief summary of the key findings.

3.1 Definition of pro bono legal work

For the purposes of the survey and in the interest of data accuracy, the Centre used the definition of 'pro bono legal work' used in its 2008 law firms survey, which is also the definition used for the National Pro Bono Aspirational Target. This definition is closely based on the Law Council of Australia's definition of pro bono work from 1992, but clarifies some 'grey areas' in terms of what is considered pro bono legal work.

Pro bono legal work is defined as:

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;
- 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 in public interest matters; and
- On secondment at a community organisation or at a referral service provider.

The following is not considered pro bono work:

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 the commercial expectation of a fee;
- The sponsorship of cultural or 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.

Only five respondent firms indicated either that they had no definition of pro bono work, or their definition was not in accordance with the Centre's definition. Three of these firms reported the amount of pro bono work done by their firm in the 2009-2010 financial year. Their definitions were considered not significantly different to the one used in the survey and thus their reported hours have been included in the analysis.

3.2 Pro bono hours and percentages of revenue

All of the 29 respondent firms had done pro bono legal work in the previous 12 months/2009-2010 financial year⁷. Twenty-four firms (83%) were able to provide either estimates or exact figures on the amount of pro bono work undertaken in that time period. Together these law firms provided 322,343 hours of pro bono work, the equivalent of 179 lawyers doing pro bono work full-time throughout the year.⁸

The average number of hours per lawyer across all firms was 29, but the figures varied greatly from 1.7 hours to 71 hours per lawyer per year. The median number of hours per lawyer was 27.6, which is significantly higher than the median number of hours per

⁷ One firm reported figures as at 31.12.2009.

⁸ This figure is calculated based on a 37.5 hour working week for 48 weeks per year.

lawyer reported by respondent firms in the 2008 survey, which was 21. This suggests that firms have maintained their commitment to pro bono work even during the GFC and at a time when many firms have shed staff. (See Chart 5 on p. 19)

The range of pro bono represented as a percentage of total practice income (gross billables) varied from 0.15% to 3.47%, with the median and average both being 2%. Only 13 out of 29 firms (45%) provided this data.

3.4 Participation rates

Twenty-five out of 29 firms (86%) provided the percentage of lawyers participating in (doing at least one hour of) pro bono legal work. Participation rates varied greatly among respondents from 10% to 90%. The average participation rate across all firms was 59%, and the median participation rate was 63%. (See Chart 7 on p. 20)

3.5 Budgets and targets

Nineteen firms (65%) set a budget or a target for the amount of pro bono work in the 2009-2010 financial year. Fourteen firms (48%) indicated that the budget or target was larger than two years ago, and four firms (14%) reported that the budget or target was the same as two years ago. No firms reported a reduced target or budget.⁹ The basis for setting such a budget or target varied considerably between firms. Some set it as a cap whilst others set it as no more than a forecast. (See Chart 8 on p. 21)

3.6 Pro bono practice management

Systems for the coordination of pro bono work varied among respondents. Twenty-eight firms (96%) reported having a system of coordination for pro bono work.

⁹ One firm replied 'don't know'.

Seventeen firms (58%) reported having a pro bono coordinator/director, with nine coordinators (15%) working full-time. Thirteen firms (44%) reported having a designated (but not necessarily full-time dedicated) pro bono partner, whilst nine firms (31%) reported having a designated employee solicitor. Four firms (13%) indicated having a designated non-legal staff member, and 10 firms (34%) had a pro bono committee. (See Chart 4 on p. 17)

Lawyers in 27 firms (93%) were required to meet billable hours and/or financial targets. Twenty-two of these firms (81%) required lawyers to meet both billable hours and financial targets, and lawyers in five firms (19%) were required to meet billable hours targets only. No firms set only financial targets for their lawyers.

Seventeen of the 27 firms with billable hours targets (63%) gave full credit for pro bono work in meeting these targets. Two firms (7%) indicated that they gave full credit for pro bono hours but that they are capped at a certain number of hours per week/month/year.

Ninety per cent of firms (n=26) recognised pro bono work in performance appraisals, and 75% (n=22) took pro bono work into account when considering promotion or advancement. Pro bono work was also taken into account in salary reviews by 55% of firms (n=16), and 48% of firms (n=14) gave internal awards for pro bono work. (For details see p. 28)

The survey data also revealed the varying approaches firms have taken to their community service programs and how they are managed. Seventy-two percent of firms (n=21) reported having a community service program. A diverse approach to the management of these programs emerged, with over half of these firms (58%, n=12) indicating that their community service and pro bono programs are jointly managed, either by the same people or broadly under the same umbrella, whilst the remaining firms (42%, n=9) all reported separately managed programs.

The survey also sought information on whether firms have a system of evaluating their pro bono programs. Only seventeen out of 29 firms (58%) reported having a system for evaluating both their pro bono program as a whole and individual pro bono projects, with 35% of firms reported having no evaluation system at all.

3.7 National Pro Bono Aspirational Target

Thirteen respondent firms (45%) were signatories to the National Pro Bono Aspirational Target ('Target').¹⁰ Of the 13 signatories, seven firms (54%) met the Target in the 2009-2010 financial year. On average, signatories to the Target reported higher hours per lawyer and higher participation rates than non-signatory firms, suggesting that generally, signatory firms have a stronger pro bono culture evidenced by significantly higher participation rates (66% v 42%) and pro bono hours per lawyer (37.8 v 18.6). (See Table 1 on p. 29 and Chart 15 on p. 30)

3.8 Areas of law and practice

Areas of law and practice in which the most number of firms provided pro bono services in the 2009-2010 financial year were employment law at 83% (n=24), Deductible gift recipient (DGR) applications at 72% (n=21), administrative/constitutional law at 72% (n=21), debt at 69% (n=20), consumer law at 69% (n=20) and incorporations at 66% (n=19). The areas of law or practice in which the least amount of firms provided pro bono legal services were professional negligence (none), royal commissions at 7% (n=2), personal injury at 17% (n=5) and family law (other than domestic violence) at 21% (n=6). (See Chart 17 on p. 33)

¹⁰ The National Pro Bono Aspirational Target is a voluntary target of 35 hours of pro bono work per lawyer per year. It was launched by the Centre in 2007, and currently covers approximately 5500 lawyers, or roughly 10% of the legal profession. The Target is contained in a Statement of Principles It represents a minimum number of hours of pro bono legal work that all signatories aspire to undertake.

Areas of law and practice in which most firms turned down requests for pro bono assistance for reasons other than means or merit were family law at 52% (n=15), employment law at 41% (n=12), personal injury at 38% (n=11), criminal law at 38% (n=11) and DGR applications at 34% (n=10). (See Chart 18 on p. 35)

It is worth noting, that employment law and DGR applications are both highly ranked as an area of law in which pro bono services are provided as well as an area of law in which requests for pro bono assistance were turned down for reasons other than means or merit. This suggests that despite the efforts of private law firms and community legal centres, unmet legal need in these areas of practice remains high.

3.9 Sources of pro bono work

The most common sources for new pro bono matters were referrals from a clearing house and/or other referral scheme at 90% (n=26), direct requests from existing pro bono clients at 90% (n=26), referrals from employees of the firm at 86% (n=25), direct requests from existing non-pro bono clients at 79% (n=23) and referrals from a community legal centre at 72% (n=21). (See Chart 16 on p. 31)

3.10 Constraints to pro bono work

The main constraint to doing pro bono work was firm capacity at 66% (n=19), followed by conflict of interest with fee paying clients at 55% (n=16), insufficient expertise in relevant areas of the law at 51% (n=15) and lack of partner support within the firm at 34% (n=10). Three firms (10%) indicated there were no constraints to doing pro bono work. (See Chart 24 on p. 48)

3.11 Disbursement assistance schemes

The survey sought to elicit information on firms' policies on disbursements, disbursement assistance schemes and disbursements that may act as barriers to obtaining or providing pro bono legal assistance. Whilst many firms have policies with regard to disbursements, 12 firms (41%) indicated that decisions are made on a case-by-case basis. Respondents' approaches to funding external disbursements varied. Whilst all firms met the cost of internal disbursements, at least to a pre-determined amount, there was variation in how external disbursements were treated. Twenty-one per cent (n=6) of firms charged the client for external disbursements, whilst 17% (n=5) of respondents covered all external disbursements.

Only seven firms (24%) indicated that they had used or applied to a disbursement assistance scheme in the last two years. Twenty-two firms (76%) had not.

The survey also sought information on the respondents' experience of the currently available disbursement assistance schemes. Comments varied from views on the usefulness of disbursement assistance schemes to criticism regarding a cumbersome and administrative application process and the lack of pre-approval of costs. For a full account of comments made by respondents, see Table 4 on page 45.

3.12 International pro bono and work done in regional, rural and remote regions

Twelve firms (41%) reported doing international pro bono work in the 2009-2010 financial year. Ten out of those 12 firms estimated this as a percentage of their total pro bono work. Responses varied between 1-20%, with the median being 7.5% (see Chart 29 on p. 56). Much of this work was actually carried out in Australia.

Thirteen firms (45%) reported doing pro bono work for clients in regional, rural and remote ('RRR') areas. The percentage of the firms' overall pro bono work (measured in

hours) focussed on RRR clients, varied greatly from 5% to 60%, with the median being 15% (see Chart 27 on p. 54 for more details). Again much of this work was actually not done in the RRR area, but carried out in the firms' offices.

3.13 Commonwealth Tender Scheme

Finally, the survey sought to elicit information about the pro bono conditions of the Commonwealth Tender Scheme introduced in July 2009 and their operation. Sixteen firms (55%) had tendered for Commonwealth Government work under the *Legal Services Directions 2005* (as amended). Sixty-three per cent of those firms (n=10) found the 'pro bono conditions' to be useful in promoting pro bono as a lawyer's professional obligation or encouraging firms to do more pro bono work. Firms were also asked if they had identified any issues with the design or operation of the 'pro bono conditions'. Five firms responded to the question and identified issues including problems with the broad definition of 'pro bono work' (which includes community work), the difficulties in assigning value to non-legal community work and issues with the reporting template. (See Table 8 on p. 61 for more details)

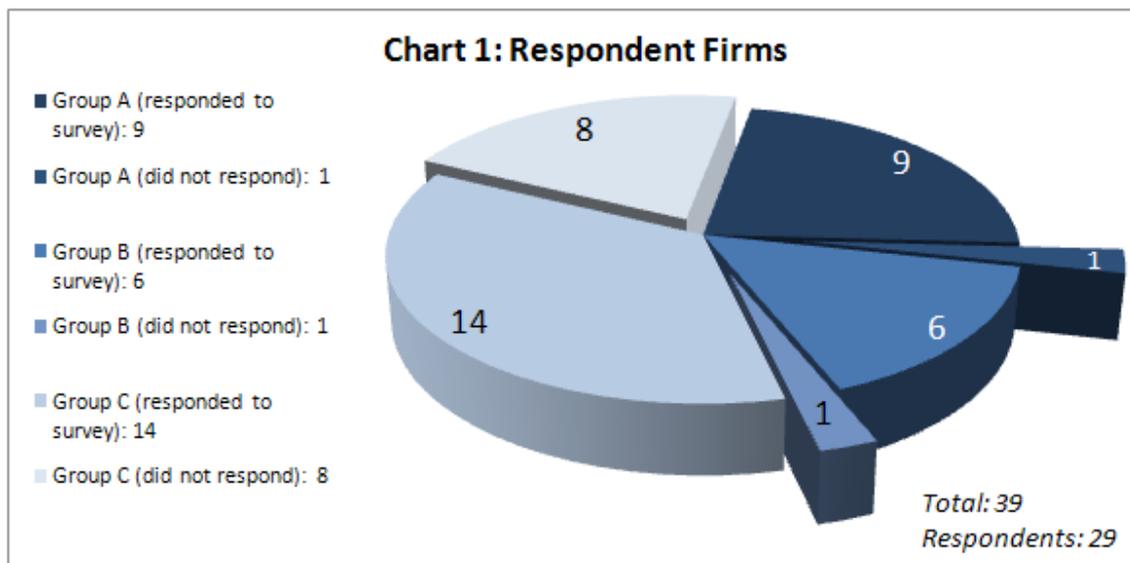
IV Survey Results

4.1 Respondent firms

Twenty-nine firms responded, representing 74% of the survey sample (39 firms). They fell naturally into three groups by size. Nine of the firms had between 450-1000 full time equivalent ('FTE') lawyers ('Group A'), a further six firms had between 201-350 FTE lawyers ('Group B') and 14 firms had between 50-200 FTE lawyers ('Group C'). None of the respondent firms had between 351-449 FTE lawyers.

Of the 10 firms that did not respond one firm would have been in Group A, one in group B and eight in group C.

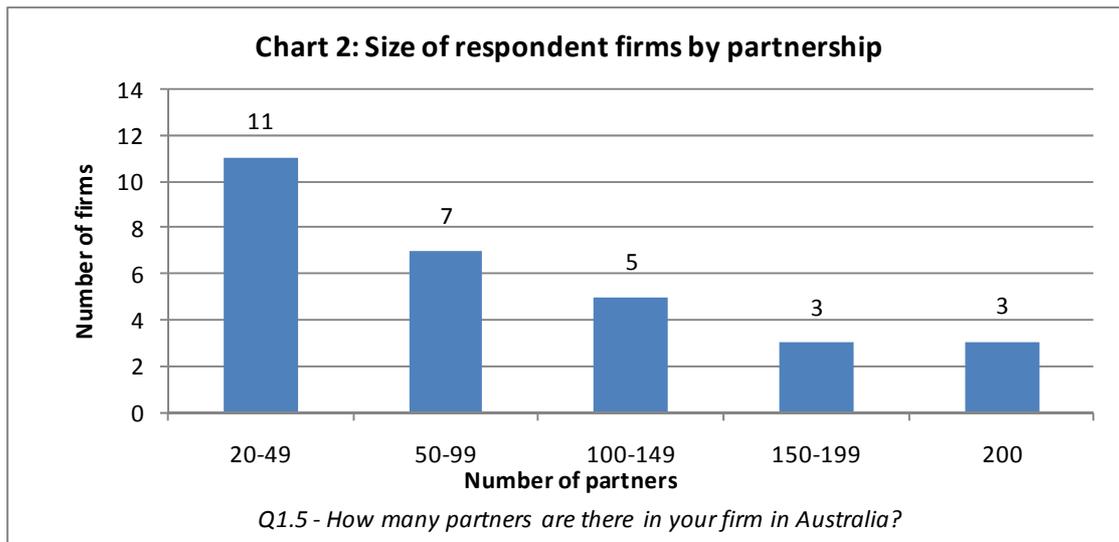
Altogether, the respondent firms had 10,410.3 FTE lawyers in Australia, representing approximately 18% of the Australian legal profession.¹¹



¹¹ Ibid at 4. In the 2008 survey lawyers in the 25 respondent firms were estimated to represent approximately 22% of the Australian legal profession. The discrepancy between these figures can partially be explained by:

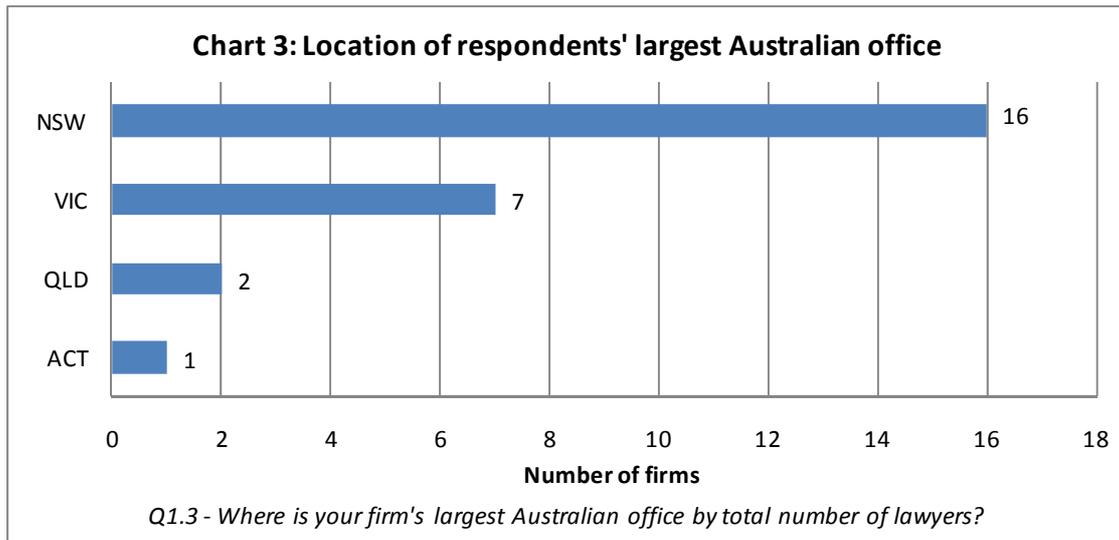
- In the 2008 survey we asked respondents to provide numbers of FTE lawyers in ranges, rather than exact figures;
- The Centre's reliance in 2008 on the 2008 Australian Financial Review Partnership Survey for some data; and
- The impact of the GFC on the size of many large and mid-size firms in Australia.

The respondent firms were also asked about the numbers of partners in their firm. Three firms (10%) had 200 or more partners, another three firms (10%) had between 150-199 partners, five firms (17%) had between 100-149 partners, seven firms (24%) had between 50-99 partners and 11 firms (38%) had between 20-49 partners.



Twenty-six out of 29 firms had more than one office, and 10 firms also had offices overseas. Twenty out of the 29 firms who responded to the survey (69%) had completed the Centre's previous Law Firm Pro Bono Survey in 2008¹². Sixteen respondents (55%) reported that their firm's largest Australian office (by number of lawyers) was in New South Wales. Seven firms (24%) had their largest office in Victoria, and one firm had its largest office in the Australian Capital Territory. There were also three firms with only one office. These firms were located in New South Wales, Queensland and Victoria.

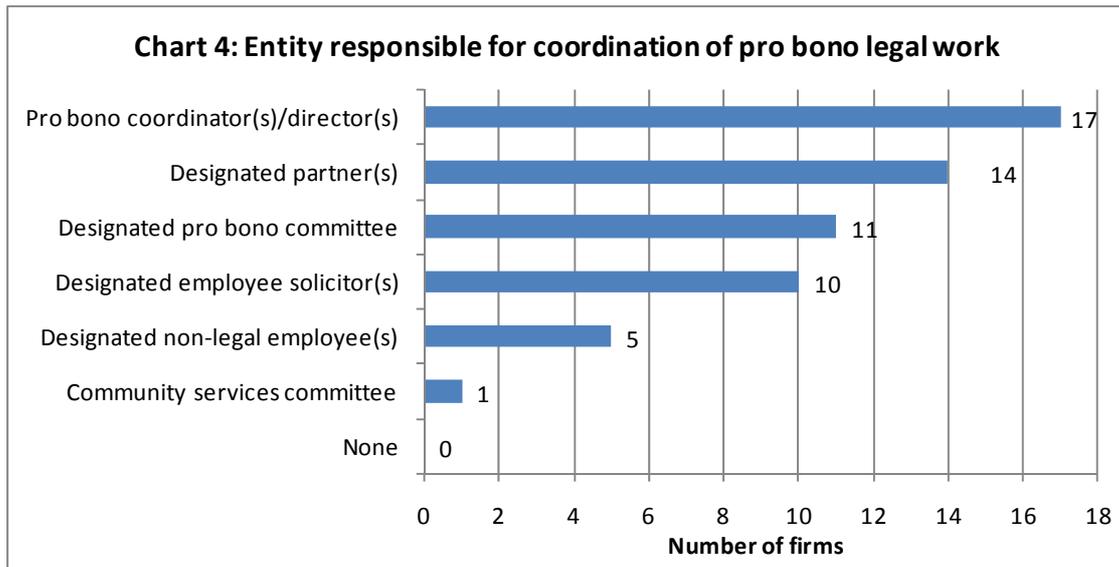
¹² In 2008, the survey sample consisted on 25 large and mid-sized Australian law firms.



4.2 Coordination of pro bono work and pro bono policies

Systems for the coordination of pro bono work varied among respondents. Twenty-eight firms (97%) reported having a system of coordination for pro bono work. Seventeen firms (60%) reported having a pro bono coordinator/director, with nine of these coordinators working full-time. Thirteen firms (46%) reported having a designated (but not necessarily dedicated) pro bono partner, whilst nine firms (32%) reported having a designated employee solicitor. Four firms (14%) indicated having a designated non-legal staff member, and 10 firms (36%) had a pro bono committee.

Six firms with more than one office responded to a question regarding the presence of pro bono coordinators in the firm's other offices. One firm indicated having a pro bono coordinator in all of its other offices, two firms reported having coordinators in most of its other offices and three firms indicated that they did not have pro bono coordinators in any of their other offices.



In the 2008 survey, 22 firms (88%) reported having a system of coordination for pro bono work. Twenty firms (80%) reported having a pro bono coordinator, 11 of which worked full-time. Ten firms (40%) reported having a pro bono committee.

Twenty-eight firms reported having a pro bono policy. Of these, 96% (n=27) had a formal (written) pro bono policy, and one firm (4%) did not know whether their policy was formal or informal (based on past practice only).

4.3 Amount of pro bono work

4.3.1 Total number of hours

Twenty-four out of 29 respondents (83%) were able to provide responses to the question regarding the amount of pro bono legal work done by the firm as a whole.¹³ In the 2009-2010 financial year, these 24 firms did a total of 322,343 hours of pro bono work. This total represents an average of 6,199 hours of pro bono work completed each

¹³ Three firms who reported pro bono hours indicated that they had no definition of pro bono legal work or used a different definition to that provided in the survey. Their definitions were considered not significantly different to the one used in the survey and thus their reported hours have been included in the analysis.

week¹⁴, or 179 lawyers doing pro bono work full-time throughout the year.¹⁵ The total number of hours per firm varied from 300 hours (a Group C firm) to a remarkable 51,500 hours (a Group A firm). Two firms advised that they provided around 40,000 hours, another two around 30,000 hours and a further two around 25,000 hours of pro bono work. The firms with the next highest hours provided around 17,000 and 14,000 hours of pro bono work respectively. All of these firms were in Group A (firms with 450-1000 FTE lawyers).

4.3.2 Hours per lawyer

Twenty-four out of 29 respondents (83%) were able to provide figures on pro bono hours per lawyer in the 2009-2010 financial year. The average number of hours per lawyer across all firms was 29 hours, but the figures varied greatly from 1.7 hours per lawyer to 71 hours per lawyer per year.

Firms in Group A (9 firms) recorded the highest average of 41.5 hours per lawyer per year. Firms in Group B (6 firms) reported an average of 22.5 hours per lawyer per year and firms in Group C (14 firms) reported an average of 27.2 hours per lawyer per year.¹⁶ However, the two highest numbers of hours per lawyer per year, 71 and 65, were reported by two firms in Group C, distorting the average number of hours per lawyer per year in that group. When the two top performing firms' hours are not taken into account, the average number of hours per lawyer per year for the remaining nine firms who reported total pro bono hours in Group C was 22 hours per lawyer.

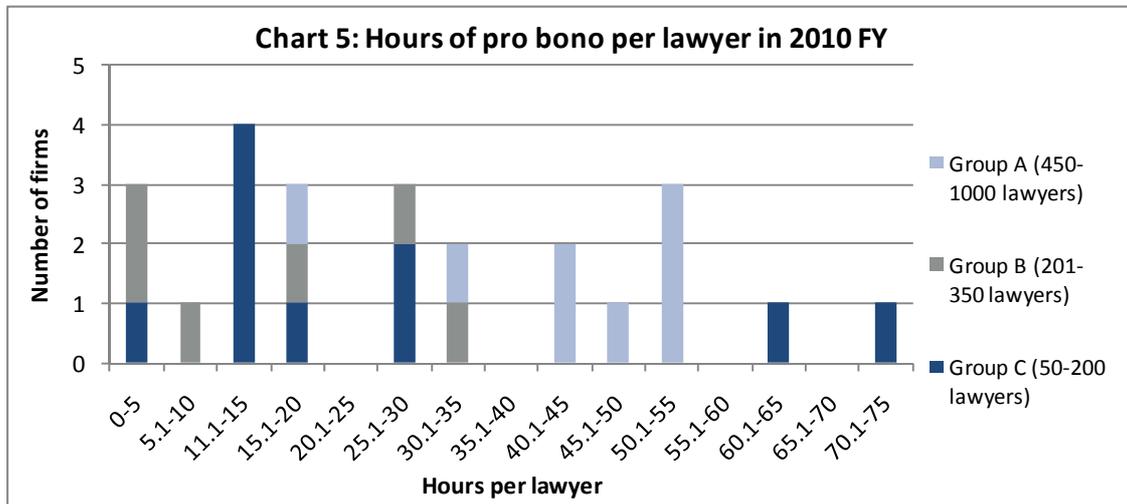
The median number of hours per lawyer was 27.6, which is significantly higher than the median number of hours per lawyer reported by respondent firms in the 2008 survey,

¹⁴ Based on 52 weeks.

¹⁵ This figure is calculated based on a 37.5 hour working week for 48 weeks per year.

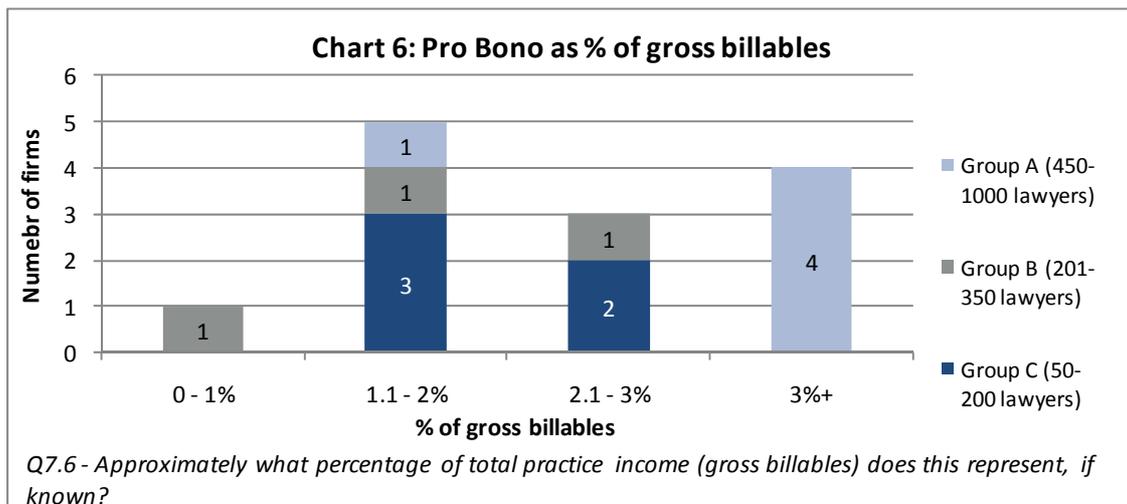
¹⁶ These figures are based on the number of lawyers in each group whose firm reported total pro bono hours.

which was 21.¹⁷ This suggests that firms have maintained their commitment to pro bono work even during the GFC and at a time when many firms have shed staff.



4.3.3 Percentage of total practice income

Responses to this question were received from 13 out of 29 firms (45%). Some firms indicated that they did not keep this data. The range of pro bono represented as a percentage of total practice income (gross billables) varied from 0.15% to 3.47%, with the median and average both being 2%. Chart 6 illustrates the results.



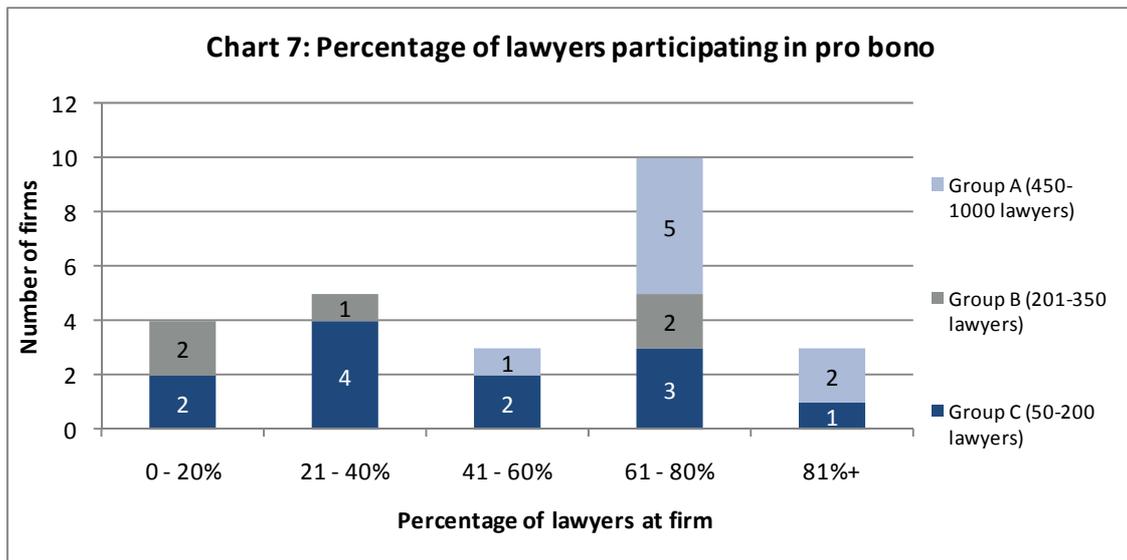
¹⁷ The median number of hours in 2008 was calculated based on the mid point of a range of hours, and determined on an office-by-office rather than on a firm basis.

In the 2008 survey, 16 firms (64%) reported their pro bono work as a percentage of gross billables. Only one firm reported a figure of over 3%, and four firms reported a figure in excess of 2%. Seven firms reported a figure between 0-1%.

4.4 Participation rates

Twenty-five out of 29 firms (86%) provided the percentage of lawyers participating in (doing at least one hour of) pro bono work in the 2009-2010 financial year. Participation rates varied greatly among respondents from 10% to 90%. The average participation rate across all firms was 59%, and the median participation rate was 63%.

Eight firms in Group A (out of 9 firms) reported an average participation rate of 72%. Five firms in Group B (out of 6 firms) reported an average participation rate of 41%. Twelve firms in Group C (out of 14 firms) reported an average participation rate of 49%. Both the highest and the lowest participation rate were reported by firms in Group C.

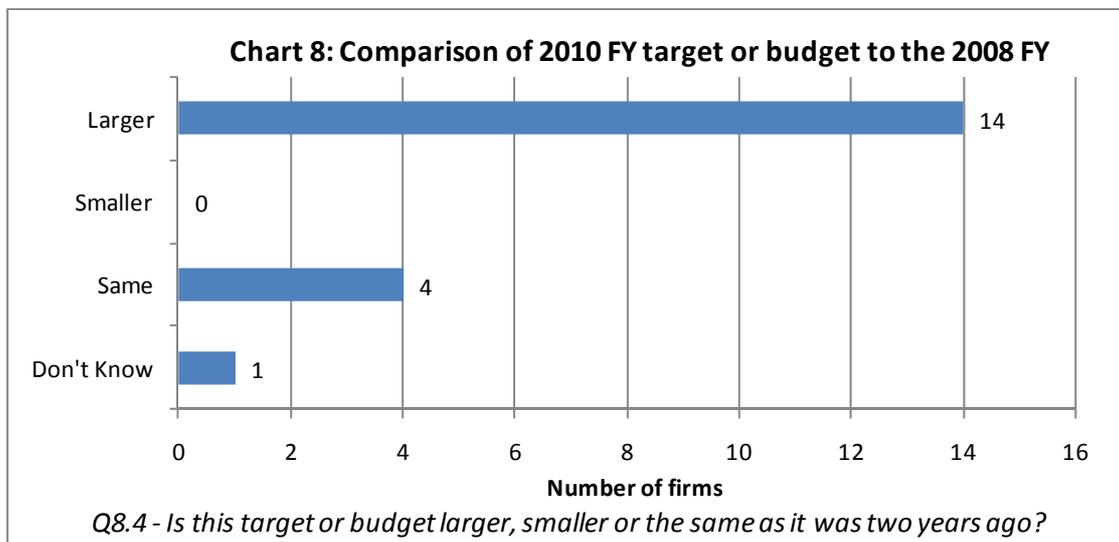


In the 2008 survey, participation rates varied greatly between 0-5% and 80-100%. The median participation rate nationally was 21-40%. Because participation rates were asked in ranges of figures instead of precise numbers, the 2008 survey report did not contain a calculation on the average participation rate.

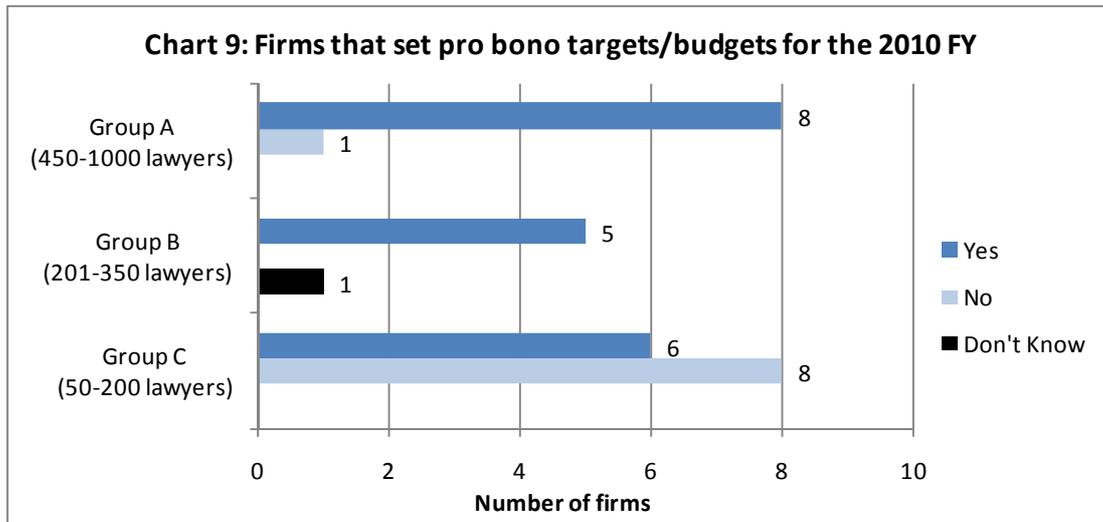
4.5 Budgets and targets, counting and crediting, and recognition for pro bono work

4.5.1 Budgets and targets

Nineteen firms (66%) set a budget or a target for the amount of pro bono work in the 2009-2010 financial year. Fourteen firms (48%) indicated that the budget or target was larger than two years ago, and four firms (14%) reported that the budget or target was the same as two years ago. No firms reported a reduced target or budget.¹⁸

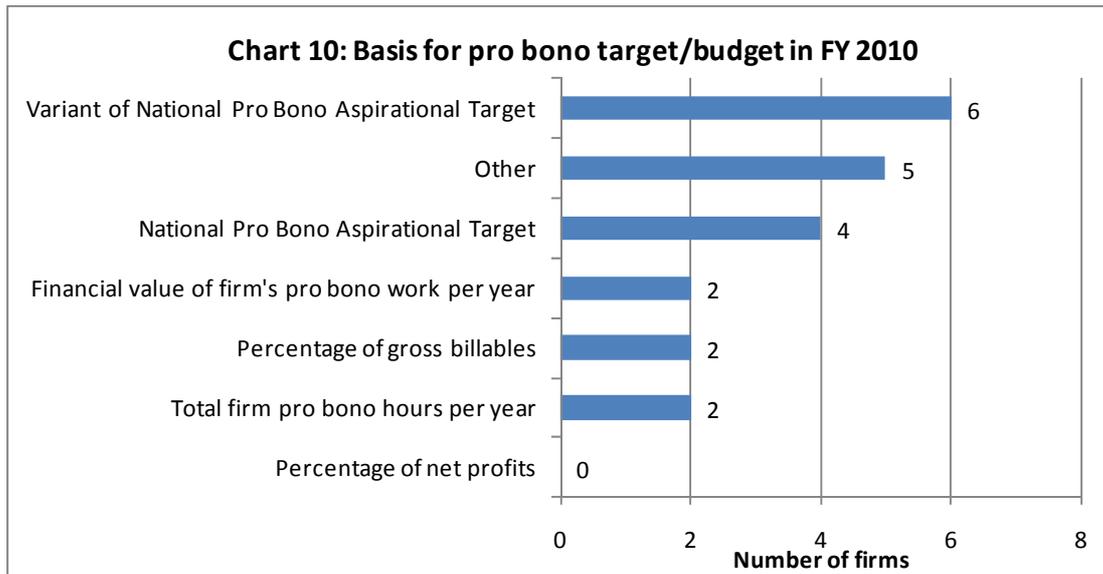


¹⁸ One firm replied 'don't know'.



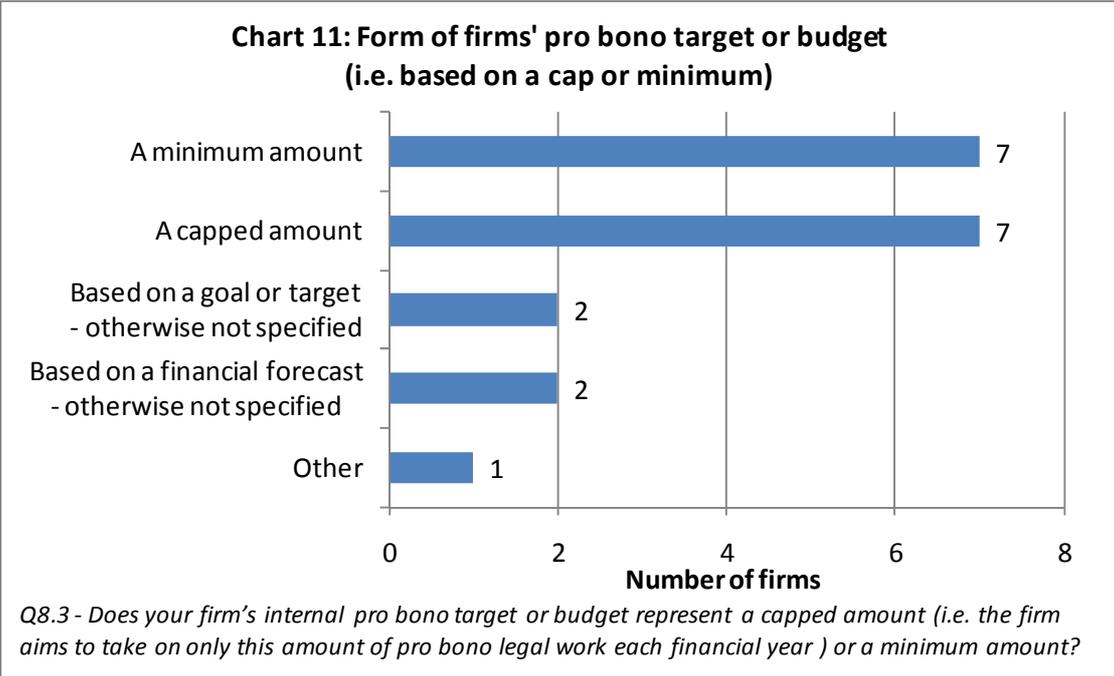
Of those 19 firms who had set a budget or a target for their pro bono work, four (21%) had based it on the National Pro Bono Aspirational Target. Six firms (32%) had based their budget or target on another number of hours per lawyer per year than the Aspirational Target. This number could be either lower or higher than the Aspirational Target. Two firms (11%) based their budget or target on the number of pro bono hours for the firm as a whole per year, and another two firms (11%) based their target or budget on a percentage of gross billables. A further two firms (11%) based their budget or target on the financial value of the pro bono work done by the firm as a whole per year. Five firms also described 'other' ways of setting their pro bono budget or target, including:

- Percentage of revenue
- It took into consideration the obligation required by the Victorian government and then made an allowance for a little more.
- We have an expenditure budget
- Percentage of net fees



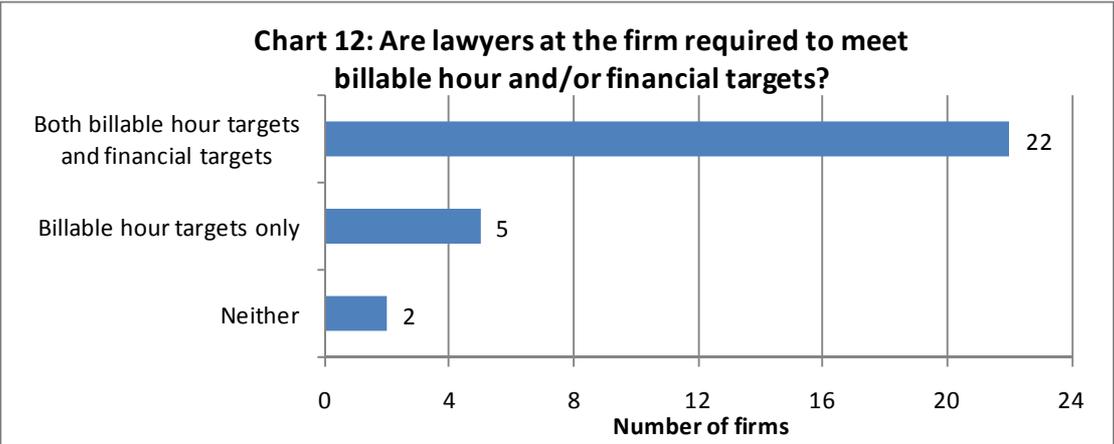
Respondents were also asked whether the firm's internal budget or target represents a capped amount (i.e. the firm aims to take on only the specified amount of pro bono work in each financial year) or a minimum amount. Six firms (32%) indicated the target or budget represented a capped amount, and seven firms (37%) indicated the budget or target represented a minimum amount. A further six firms made 'other' comments, including:

- It is a financial forecast only
- Yes capped – but some flexibility to exceed the cap
- Rolling forecast (based on previous expenditure) and community need
- It's a goal, but not capped
- More of a target than a cap



4.5.2 Counting and crediting pro bono work

Lawyers in 27 firms (93%) were required to meet billable hours and/or financial targets. Twenty-two of these firms (81%) required lawyers to meet both billable hours and financial targets, and lawyers in five firms (19%) were required to meet billable hours targets only. No firms set only financial targets for their lawyers.



Altogether 27 firms had billable hour targets. Seventeen of those firms (63%) gave full credit for pro bono work in meeting these targets. Two firms (7%) indicated that they gave full credit for pro bono hours but that they are capped at a certain number of hours per week/month/year.

4.5.3 Both billable hours and financial targets

Of the 22 firms that used **both** billable hours and financial targets, full credit for pro bono work was given in 14 firms (64%). One firm (5%) gave full credit for pro bono work but capped it at a certain amount of hours per week/month/year, and one firm (5%) treated pro bono hours as billable hours for the purposes of a lawyer's billable hours target but gave them a lower or a negligible value for the purposes of financial targets. Four firms (18%) treated pro bono hours as non-billable hours, recorded them in a special non-billable (e.g. pro bono) category, and gave them a lower or negligible value for the purposes of a lawyer's financial target. 'Other' reported options for the treatment of pro bono hours were:

- Pro bono hours are treated as non-billable hours but are recorded as a special non-billable (pro bono) category which reduces lawyers' billable hours targets and are given a charge rate equivalent to the lawyer's average charge out rate which reduces their financial targets by the equivalent value for number of pro bono hours performed
- There is mixed treatment. Legal advice is treated as billable. Law reform, community legal education and policy work will generally be treated as productive non-billable.

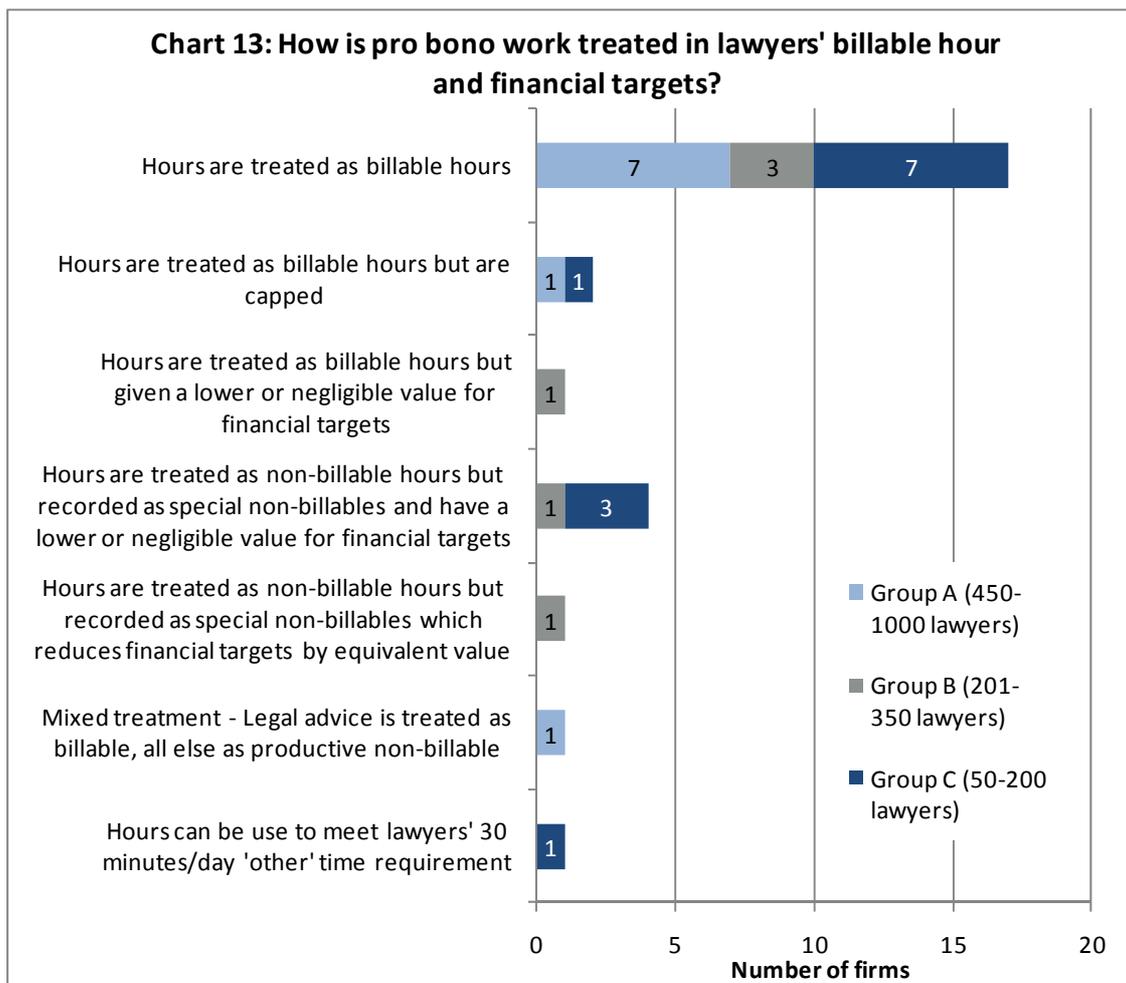
Eighteen (81%) of these firms reported their practice to be consistent across the entire firm (all offices and practice groups).

4.5.4 Billable hours only

Five out of 27 firms (19%) had billable hour targets only. In three of these firms (60%) all pro bono hours were treated as billable hours. One firm (20%) treated pro bono hours as billable hours but capped them at a certain number of hours per week/month/year, and one firm (20%) indicated 'other' ways of crediting pro bono work:

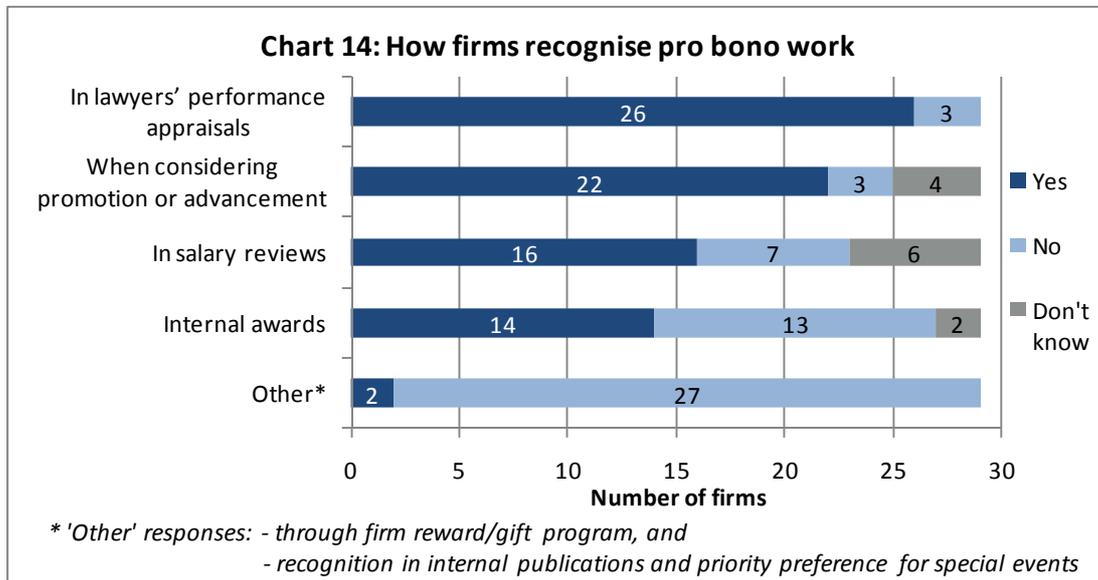
- Pro bono time is one of the ways solicitors can meet their 30 minutes per day 'other' time requirement; but otherwise they are not part of billable hours targets

All five firms indicated this to be a consistent practice across the entire firm (all offices and practice groups).



4.5.5 Recognition for pro bono work

Twenty-six firms (90%) recognise lawyers' pro bono work in their performance appraisal, and 22 firms (76%) when considering promotion or advancement. Sixteen firms (55%) take pro bono work into account in salary reviews and 14 firms (48%) give internal awards for pro bono work. 'Other' ways of recognising pro bono work included "by recognition in internal firm publication and priority preference for special events" and "a program through which pro bono active staff receive significant gifts (e.g. gift vouchers up to \$1,000)."



In the 2008 survey, the recognition methodology results were quite similar except for recognition in salary reviews which fell from 68% of firms in 2008 to 55% in 2010. i.e. 92% of respondents (n=23) recognised lawyers' pro bono work in their performance appraisal, 76% (n=19) recognised pro bono work when considering promotion or advancement, and 68% (n=17) of firms recognised pro bono work in salary reviews.

4.6 National Pro Bono Aspirational Target

Twenty-six out of 29 firms (90%) indicated they were aware of the National Pro Bono Aspirational Target ('the Target').¹⁹ Thirteen respondent firms (45%) were signatories to the Target.

Of the 13 signatories, seven firms (54%) met the Target in the 2009-2010 financial year. All of the firms that met the Target expected to meet it again next year. Of the six firms that did not meet the Target, two expected to meet the Target next year, another two expected to not meet the Target next year, and a further two were unsure as to whether they would meet the Target in the next financial year.

In responding to the question what effect (if any) has being a signatory to the Target had on the pro bono legal work undertaken by the firms they responded as follows: Five firms reported that the Target had increased the amount of pro bono work done by the firm, two firms reported that the Target increased the firm's focus on the needs of disadvantaged people, three firms reported that the Target had no effect to the pro bono work done by the firm, and three firms provided the following comments:

- The Target provides a benchmark in relation to which we can measure our commitment vis-à-vis our peers. As general engagement with pro bono rises among top tier firms and within our own, this provides a goal motivation for setting ambitious internal targets. (Group A)
- Was already meeting the Target when signed up. Would prefer Target changed to as per individual lawyers than target per lawyer on average. (Group B)
- The Target helped encourage staff to participate. (Group A)

¹⁹ Ibid at 11.

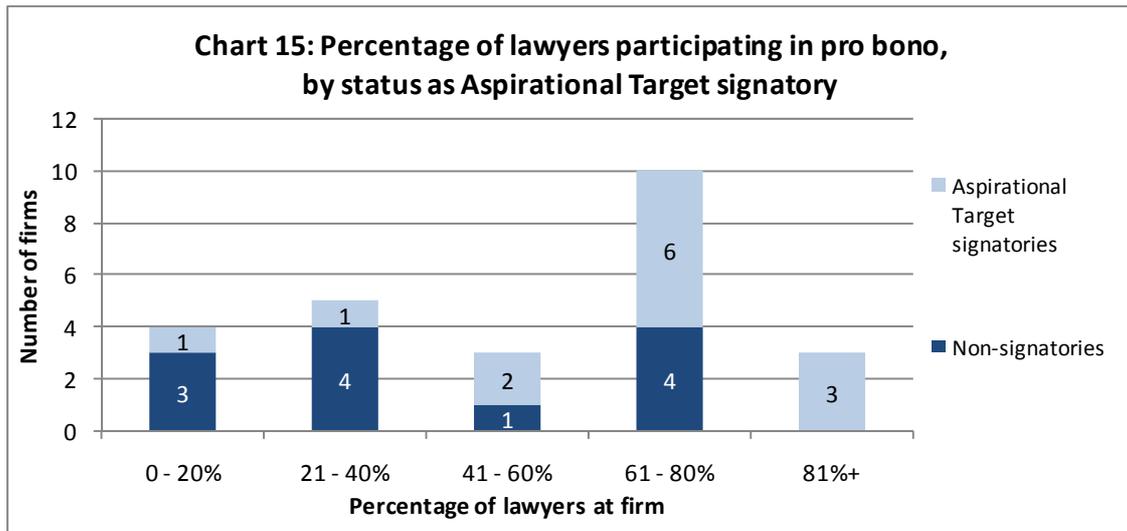
Table 1: Aspirational Target Signatories

	Aspirational Target Signatories	Non-Signatories	All firm respondents (29)
Average total pro bono hours per firm	16,758 (from 13 firms)	9,499 (from 11 firms)	13,431
Average no. of FTE lawyers	425.1 (from 13 firms)	305.2 (from 16 firms)	358.97
Average pro bono hours per lawyer	37.8 (from 13 firms)	18.6 (from 11 firms)	29
Range of pro bono hours per lawyer	11 – 71	1.36 – 53	1.36 – 71
Average participation rates*	66.3% (from 13 firms)	42.4% (from 12 firms)	54.8%
Average % of gross billables	2.2% (from 9 firms)	1.5% (from 4 firms)	2%

* 'participation rate' means greater than one hour of pro bono legal work undertaken by each lawyer during the year

On average, signatories to the Aspirational Target reported higher hours per lawyer and higher participation rates than non-signatory firms, suggesting that generally, signatory firms have a stronger pro bono culture evidenced by significantly higher participation rates (66% v 42%) and pro bono hours/lawyer (37.8 v 18.6).

It should be noted that the survey sample included one non-signatory that significantly exceeded the Target, and recorded a high percentage (3.3%) of gross billables.



In the 2008 survey, five respondents (20%) were signatories to the Aspirational Target. The data showed similar trends indicating the strong pro bono culture in signatory firms. One signatory firm reported that their pro bono work represented more than 3.0% of total practice income. Three signatory firms (80%) reported that their pro bono work represented 2.6-3.0% of total practice income (one firm did not provide a figure). The median number of pro bono hours per lawyer was 31-40 in signatory firms, compared to 21-30 in the overall sample and 6-10 in non-signatory firms. The median participation rate in signatory firms was 61-80%, compared with the median non-signatory participation rate of 21-40%, which was also the median participation rate of the overall sample.²⁰

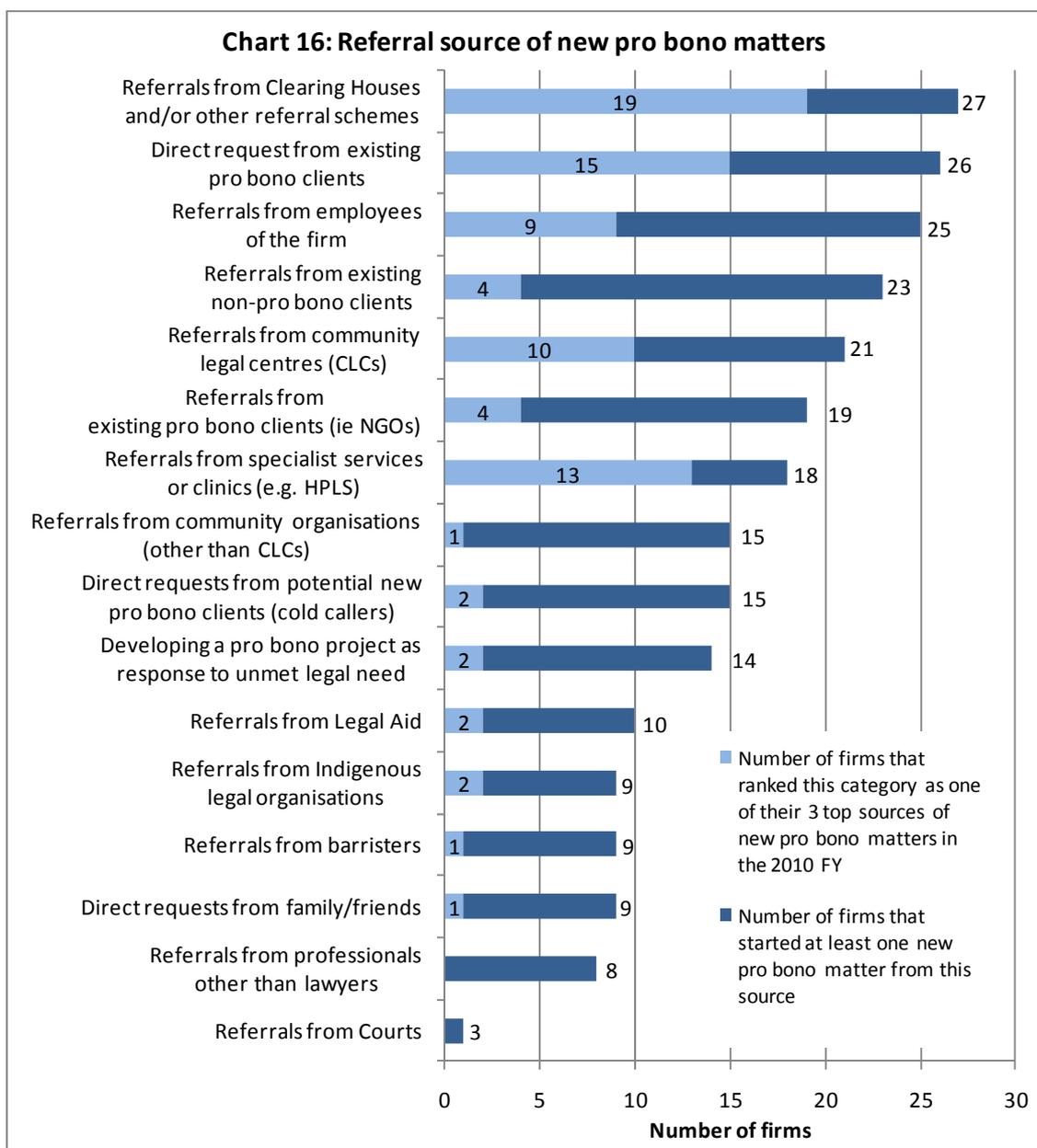
4.7 Sources of pro bono work

The most common sources for new pro bono matters were referrals from a clearing house and/or other referral scheme at 90% (n=26), direct requests from existing pro bono clients at 90% (n=26), referrals from employees of the firm at 86% (n=25), direct requests from existing non-pro bono clients at 79% (n=23) and referrals from a community legal centre at 72% (n=21). The least common source of pro bono work were

²⁰ Respondents were asked to report their hours per lawyer and participation rates in ranges of hours instead of exact figures. Averages were not calculated.

referrals from legal aid at 34% (n=10), direct requests from family or friends, referrals from a barrister and referrals from an indigenous organisation, all at 31% (n=9), and referrals from professionals other than lawyers at 28% (n=8). 'Other' nominated sources of pro bono work were:

- Referrals from court
- Proactive offering of lawyers on secondment to clearing houses and CLC's.
- Clients taken on during on-site attendance at weekly clinic.

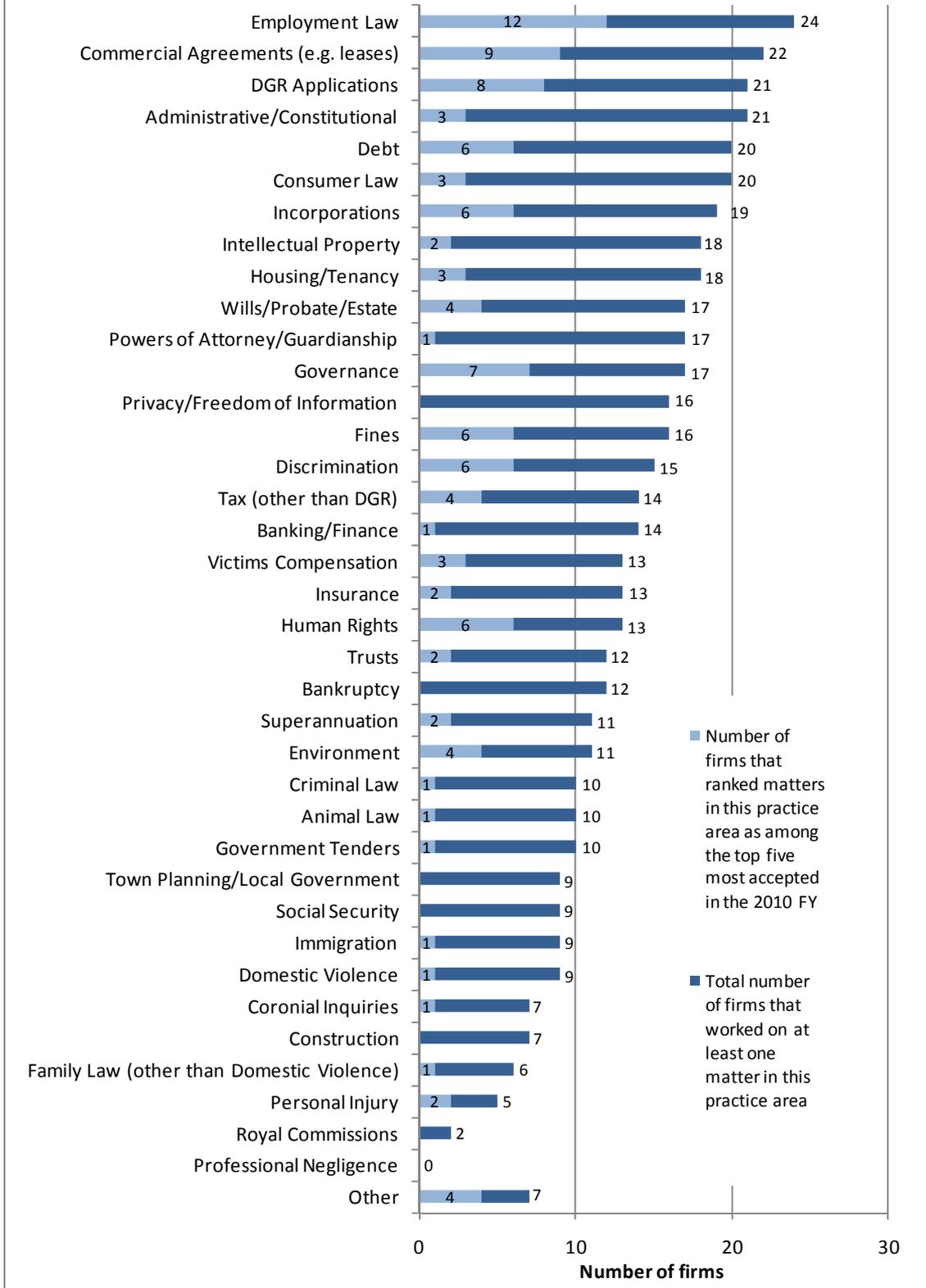


4.8 Areas of law and practice

4.8.1 Areas of law in which services were provided

Areas of law and practice in which the highest number of firms provided pro bono services were employment law at 83% (n=24), DGR applications at 72% (n=21), administrative/constitutional law at 72% (n=21), debt at 69% (n=20), consumer law at 69% (n=20) and incorporations at 66% (n=19). The areas of law or practice in which the lowest number of firms provided pro bono legal services were professional negligence (0%), royal commissions at 7% (n=2), personal injury at 17% (n=5) and family law (other than domestic violence) at 21% (n=6).

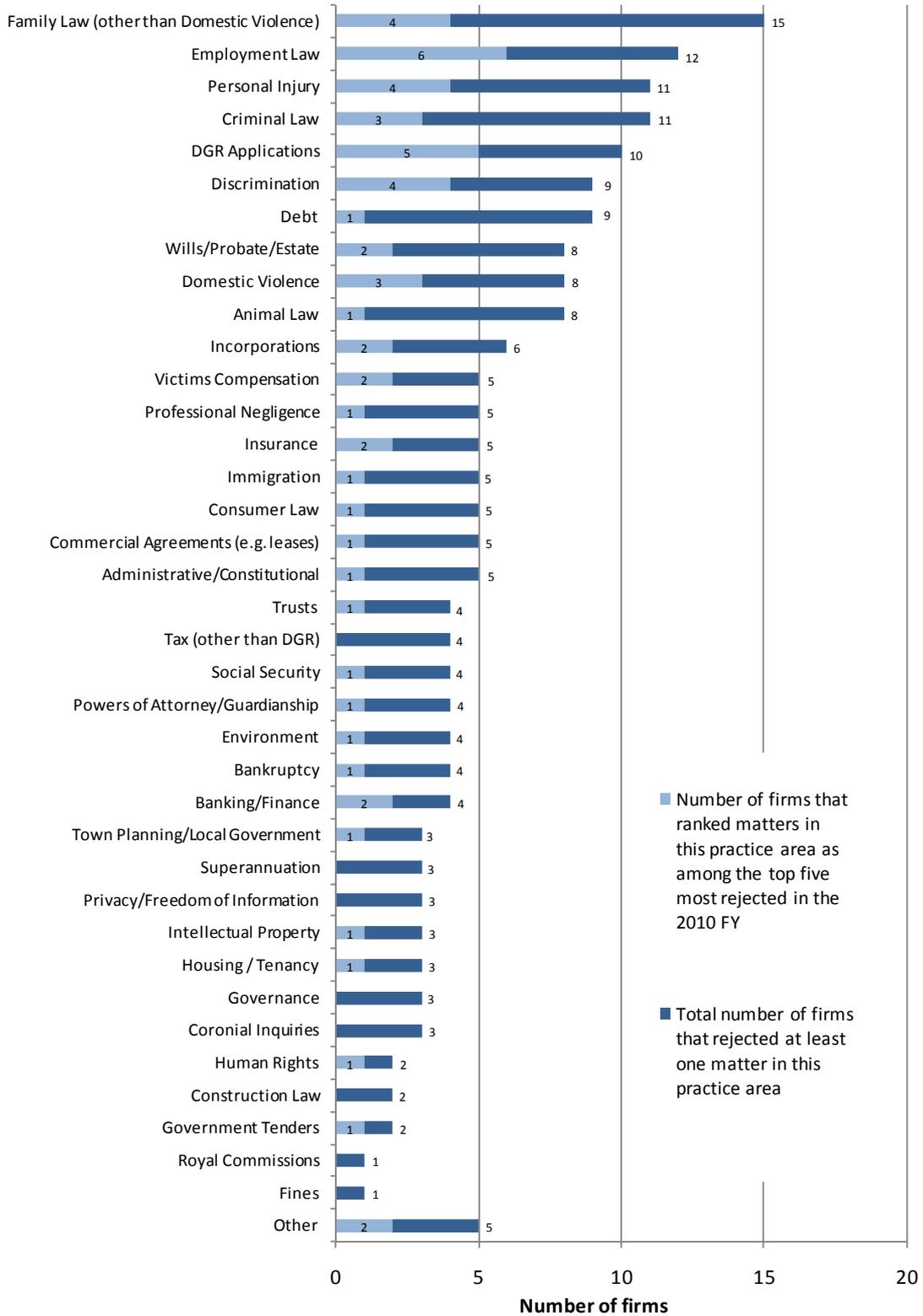
Chart 17: Provision of pro bono services in 2010 FY by practice area



4.8.2 Areas of law in which requests for assistance were turned down

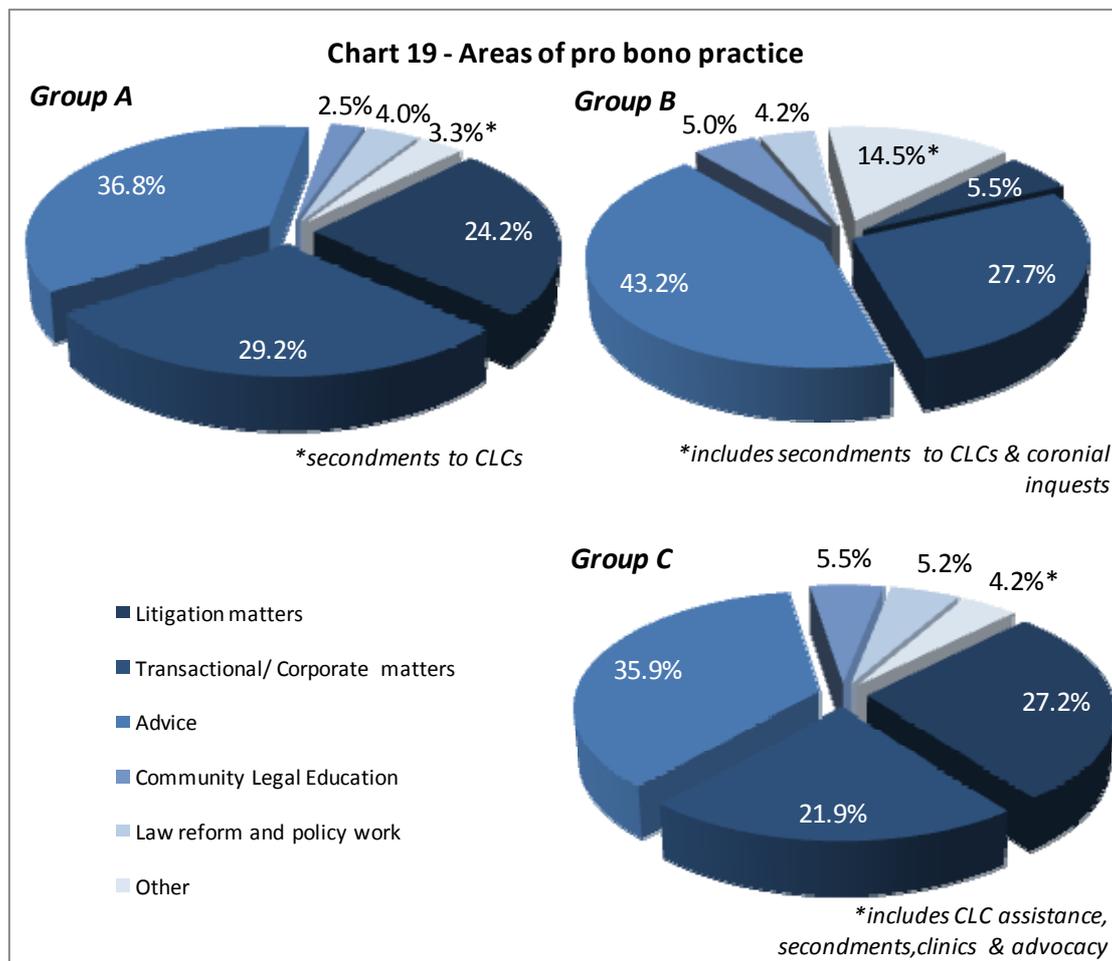
Respondents were also asked to nominate the areas of law and practice in which they turn down most requests for pro bono assistance for reasons other than means or merit. The areas of law and practice in which most requests were turned down for reasons other than means or merit were family law at 52% (n=15), employment law at 41% (n=12), personal injury at 38% (n=11), criminal law at 38% (n=11) and DGR applications at 34% (n=10). The least amount of requests were turned down in the areas of human rights, government tenders and construction law, all at 7% (n=2), as well as royal commissions and fines at 3% (n=1). This, however, is not solely an indication of the firms' ability to take on pro bono cases in these areas of law, but also reflective of the areas of law in which there is unmet legal need. This is particularly notable where there is already a high provision of pro bono service, e.g. employment law and DGR applications.

Chart 18: Rejections of pro bono assistance for reasons other than means/merit in 2010 FY, by practice area



4.8.3 Types of assistance

Respondents were asked to estimate the breakdown of pro bono services provided according to the type of assistance given. All law firms spent the largest portion of their pro bono hours in the 2009-2010 financial year providing legal advice, with firms in Group B spending the largest portion of their time doing this (43%). Transactional matters were the second highest in each Group spending between 20-30% of their time on these matters. They were followed by litigation, which for Groups A and C represented 24% and 27% of their practice, respectively. For Group B firms litigation represented only 5% of their pro bono time.



4.8.4 Recipients of pro bono work – individuals or organisations

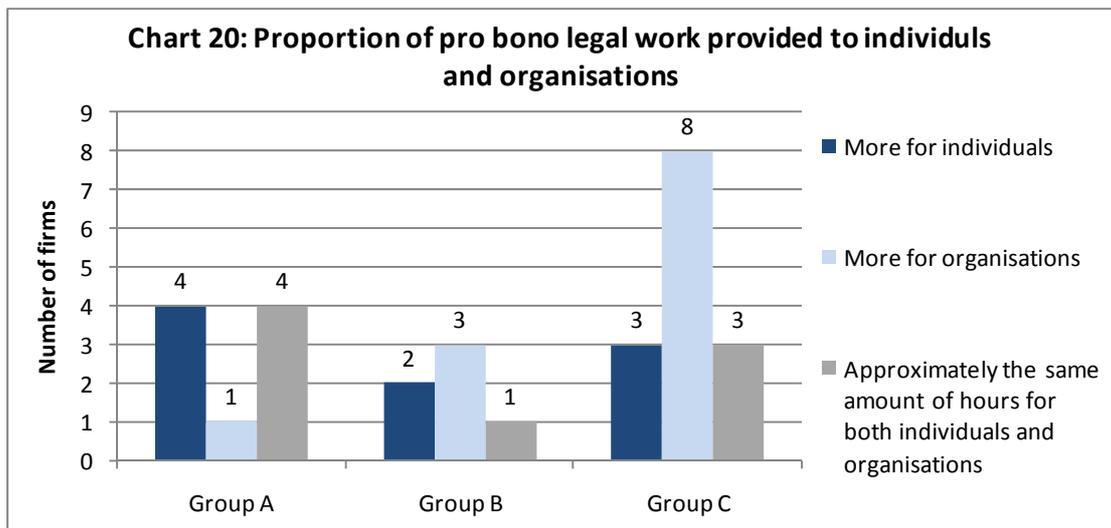
Respondents were asked how many pro bono clients they assisted in the 2009-2010 financial year. The responses varied greatly, in group A firms between 229-1500, in group B firms between 10-100 and in Group C firms between 25-164. These extreme ranges are possibly partly explained by the number of individual as distinct from organisational clients, those with the larger number of clients having more individuals (see below). Responses have been broken into groups in the table below.

Table 2: Number of pro bono clients assisted by firms in the 2010 FY

Group	Number of pro bono clients
Group A	229
	>300
	n/a
	600+
	In-house matters 569, in-house advices approx 60, externally through secondments and clinics approx 1,500
	1478
	approximately 350 (including individual clients referred to us through participation in Homeless Person's Legal Clinic or Service, and referrals from PILCH (Victoria), PILCH (NSW) and Public Interest Advocacy Centre
	545
	980
Group B	About 100
	10 (plus numerous more via secondments at CLCs and clearing houses)
	55
	Difficult to quantify but at least 246 (incl HPLS clients excl other advice clinics)
	Do not know
	Approximately 75
Group C	25
	50
	64

Group C <i>cont'd</i>	29
	Approximately 50
	40
	We don't officially keep a record as yet.
	75
	164
	Don't know
	c.30
	170
	Approximately 10
	Over 300 (not including roster work and clients)

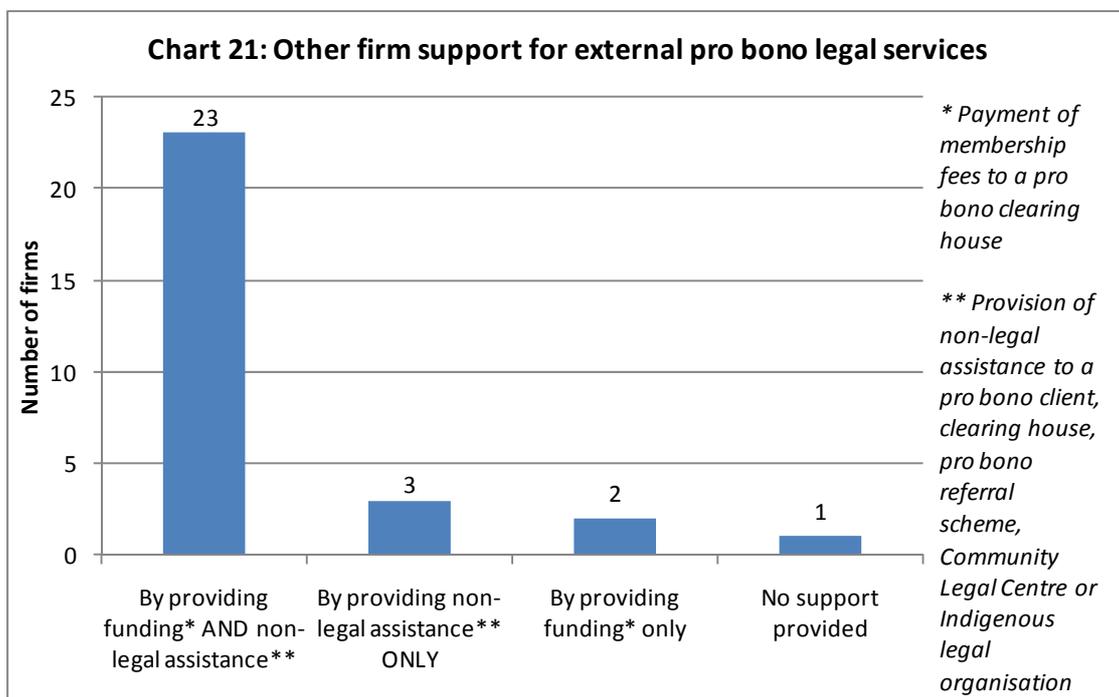
Respondents were also asked to estimate whether they do significantly more pro bono work for individuals or organisations. Twelve firms (41%) reported doing significantly more work for organisations, and nine firms (31%) reported doing significantly more pro bono work for individuals. Eight firms (28%) reported doing approximately the same amount of hours for both individuals and organisations.



4.9 Non-legal assistance

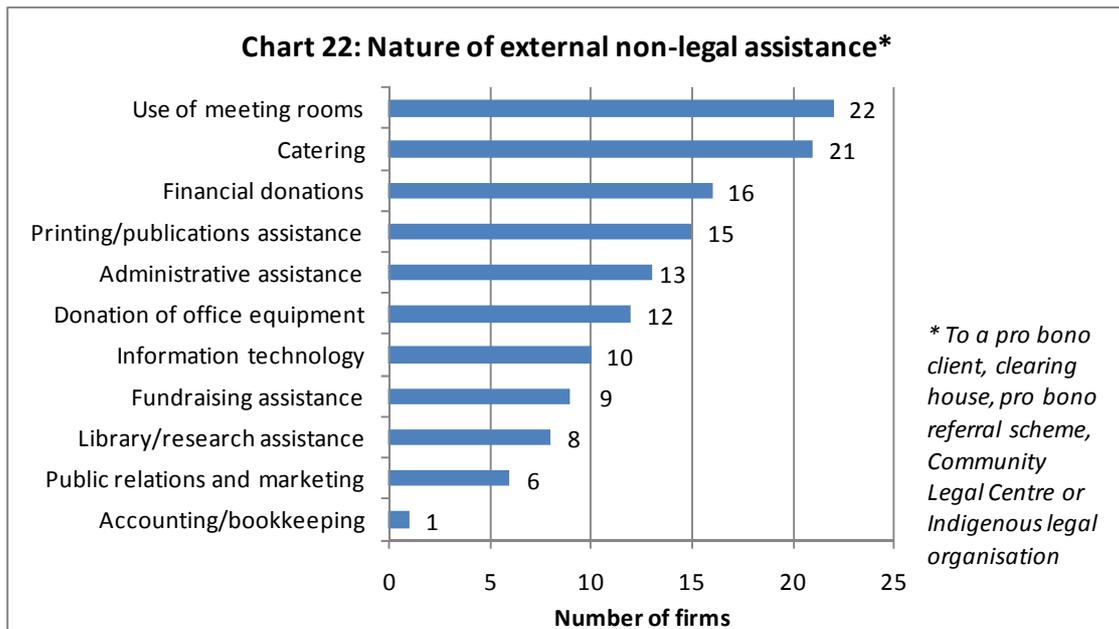
In addition to pro bono work, many firms have established programs offering a wide variety of non-legal assistance. This type of assistance is not included within the definition of pro bono legal work, and therefore is not taken into account when reporting the amount of pro bono legal work. However, this type of support offered to community organisations, particularly those that provide legal services themselves, is an important adjunct to many firms' pro bono programs.

Firms provided non-legal assistance both in the form of funds and in-kind assistance. Twenty-three firms (79%) provided both financial and in-kind assistance, whilst three firms (10%) provided only in-kind assistance and two firms (7%) provided only financial assistance. One firm (3%) provided neither.



The most common types of non-legal assistance were paying membership fees to a pro bono clearing house at 86% (n=25), providing the use of meeting rooms at 76% (n=22),

catering assistance at 72% (n=21), financial donations at 55% (n=16) and providing printing and publications assistance at 52% (n=15). Less common forms of non-legal assistance were providing assistance with public relations and marketing at 21% (n=6) and assistance with bookkeeping and accounting at 3% (n=1).



In the 2008 survey, the forms of non-legal assistance provided by firms were very similar. Most common were paying membership fees to a clearing house (84%), providing the use of meeting rooms (84%), and providing catering assistance (72%).

4.10 Pro bono legal work, community service programs and charitable foundations

In addition to pro bono legal programs, many firms have community service programs. As most research and discussion focuses on law firms' pro bono legal programs, the survey sought to elicit information on community service programs in law firms and the relationship between the community service program and pro bono legal program.

Twenty-one firms (72%) had a community service program. Respondents were asked to describe the relationship between their firms' pro bono program and community service program. Twelve firms (58%) reported that their pro bono legal program and community service program are jointly managed, either broadly under the same umbrella or by the same people. The nine remaining firms (42%) reported that their pro bono legal programs and community service programs are separately managed. Comments provided by the respondents can be found in the table below.

Table 3: The relationship between firms' community service and pro bono legal programs

Group	Nature of relationship
Group A	Separately managed, but strategically aligned. We attempt to offer community services to organisations with whom the firm has a pro bono relationship.
	Jointly managed
	They are separately managed
	The programs are separately managed though with pro bono personnel involved in the management of the community service program to ensure coordination between the two.
	One person manages both pro bono and community practice.
	They are broadly managed within the one umbrella program.
	The Head of Pro Bono is also the Head of Community Programs and many aspects of the community service program fall within her purview. For example, volunteering, we also have a RAP and the Head of Pro Bono is a major part of the management team for that project.
	The firm's community program was introduced in 2001 to formalise our ongoing commitment to pro bono and community work. Through this program, our staff provide a variety of forms of support to needy individuals, our charity and community partners. This includes pro bono advice, charitable giving and volunteering initiatives.
	Our vision for our community program is to provide multi-level support for needy

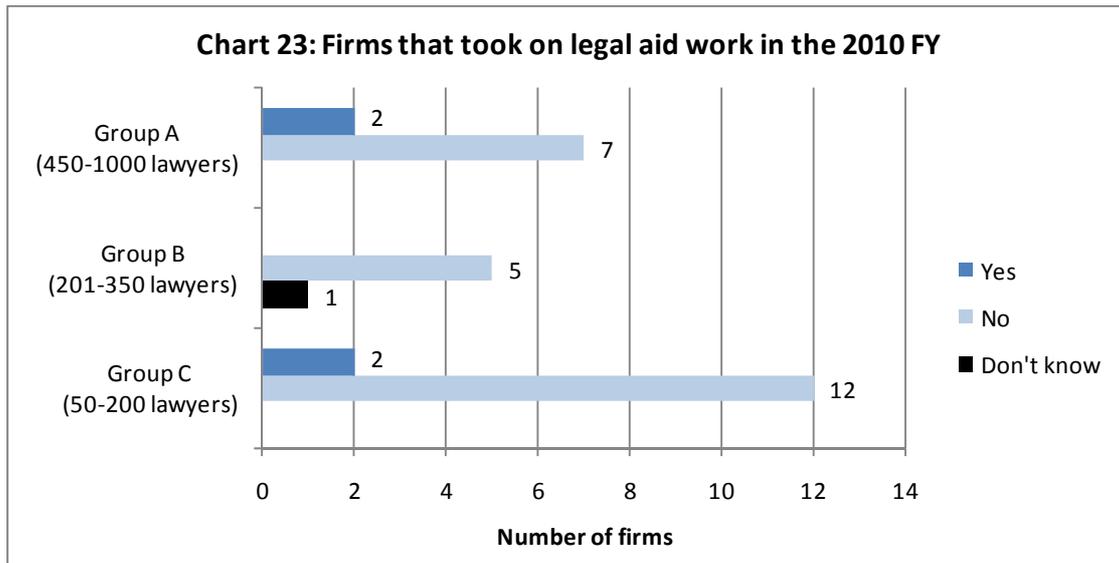
<p>Group A <i>cont'd</i></p>	<p>members of our community and for the various organisations that assist them.</p> <p>The specific charitable targets of the firm are to:</p> <ul style="list-style-type: none"> - help children and young people at risk; and - help alleviate poverty and improve community welfare. <p>The firm's community program, and new initiatives undertaken by our firm each year are overseen by the firm's community board.</p> <p>Pro bono program - We provide pro bono legal advice to assist needy members of our community and to those charities and organisations that help them (including many of the charity partners in our workplace giving program).</p> <p>Charitable giving - Under the workplace giving program, our firm's staff donate money directly from their pay to more than 40 selected charity partners. The firm matches staff donations to our charity partners.</p> <p>Volunteering our time with charity partners - We actively encourage our staff to engage in such activities. We also facilitate opportunities to make this possible. Most of this volunteering is done in their own time.</p> <p>Community partnerships - Underpinning the program are a small number of community partnerships with organisations involved in work that corresponds to the goals of the firm's community program.</p>
<p>Group B</p>	<p>Not separately managed. 'Pro Bono' is a component of the Firm's broader community engagement scheme.</p> <p>They are managed jointly by the Pro Bono and Community Senior Associate/Coordinator and Chief Operating Officer. Although the aims and focuses differ, we monitor the focuses to look for synergies where appropriate.</p> <p>Managed by similar people (overlapping roles).</p>
<p>Group C</p>	<p>Unrelated to each other. Community service is generally through financial donations</p>

Group C <i>cont'd</i>	The programs are separately managed. The pro bono program is autonomous but, for administrative purposes, is part of the firm's broader Corporate Social Responsibility program.
	They are separately managed, although we do sometimes do pro bono work for the organisations we support and we staff a HPLC which we support financially through the firm's Social Justice Fund (part of a fund administered by a Victorian community organisation)
	Both are managed by the Pro Bono and Community Committee
	They are currently separately managed.
	The community program is administered by the same person and committee They may feed into each other however the community program generally is about volunteering and includes more broadly the non-legal staff at the firm.
	The program is managed by the firm's partners
	While the pro bono program has a formal - policy based - basis, to date our community service program is more informal and has developed largely as an adjunct to the pro bono program
	They are managed together. We attempt to involve pro bono clients in our community partnerships program - i.e. inviting them to free seminars, fundraising, participation in events
	Separately managed, yes.

In addition to community service programs, 10 firms (34%) reported having a charitable foundation or committee.

4.11 Legal aid work

Respondents were asked about performing work under a grant of legal assistance from a Legal Aid Commission. Four firms (14%) indicated taking on legal aid work in the 2009-2010 financial year. Two firms were in Group A and two firms in Group C. All four firms reported that work for legally-aided clients represented between 0-5% of their firm's overall work when measured in hours.



4.12 Disbursements

The survey sought to elicit information on firms’ policies on disbursements, disbursement assistance schemes as well as those disbursements that act as barriers to obtaining or providing pro bono legal assistance. Whilst many firms have policies with regard to disbursements, 12 firms (41%) indicated that decisions are made on a case-by-case basis.

4.12.1 Internal disbursements

The firms fund disbursements for pro bono clients in a number of ways. Twenty-four firms (83%) meet the cost of (all) internal disbursements, and one firm (3%) indicated that they meet the cost of internal disbursements up to a pre-determined value and then charge the client for the rest. One firm (3%) indicated that they apply to a disbursement assistance scheme for recovery of costs where possible but otherwise meet the cost of internal disbursements.

4.12.2 External disbursements

Five firms (17%) reported meeting the cost of (all) external disbursements, and a further four firms (14%) indicated meeting the cost of external disbursements up to a pre-determined value and charging the client for the rest. Six firms (21%) indicated charging the client for (all) external disbursements. One firm (3%) indicated that they apply for a disbursement assistance scheme for recovery of costs where possible but otherwise meet the cost of external disbursements. Three firms (10%) indicated that they apply for disbursements assistance where possible, but otherwise charge the client for external disbursements.

4.12.3 Disbursements as barriers

Respondents were asked to identify which disbursements they perceive to be the greatest barriers to performing pro bono work or obtaining pro bono assistance. Expert reports, filing fees and barrister’s fees were most frequently mentioned. All responses provided by respondents can be found in the table below.

Table 4: “Which disbursements, if any, do you perceive to be the greatest barrier to the delivery of pro bono legal services?”

Group	Disbursements identified by firms as barriers to pro bono
Group A	Government charges (other than Court fees in those jurisdictions that have pro bono disbursements relief schemes).
	Travel, accommodation, expert evidence.
	None
	Expert reports
	Specialists reports, most commonly medical reports, particularly psychiatric reports but also, for example, town planners, anthropologists, building reports etc.
	Court fees
	Court filing fees.
	Expert Reports

Group A cont'd	Good interpreter services.
Group B	Medical and other expert report fees, translators/interpreters
	The only disbursements we have been concerned about have been those relating to international pro bono, including courier fees for materials, travel insurance, immunisations for employees travelling as well as travel and accommodation costs.
	No comment as we have not noted any patterns in this regard.
	Expert reports and translation/interpreting services
	Barrister fees if incurred as an expense
	Have not come across any disbursement issues in my short time in the job
Group C	Counsel
	Barristers
	None in particular.
	Not applicable
	Experts reports
	Expert reports and barristers who will not act on a conditional basis
	External disbursements
	Filing fees and other court related costs, barristers fees
	Court fees
	Don't know
	N/A
	Not applicable
	Unsure
Filing fees	

4.12.4 Disbursement assistance schemes

Only seven firms (24%) indicated that they had used or applied to a disbursement assistance scheme in the last two years. Twenty-two firms (76%) had not. Respondents were also asked to provide information and to make comments regarding existing disbursement assistance schemes. Comments provided by respondents can be found in the table below.

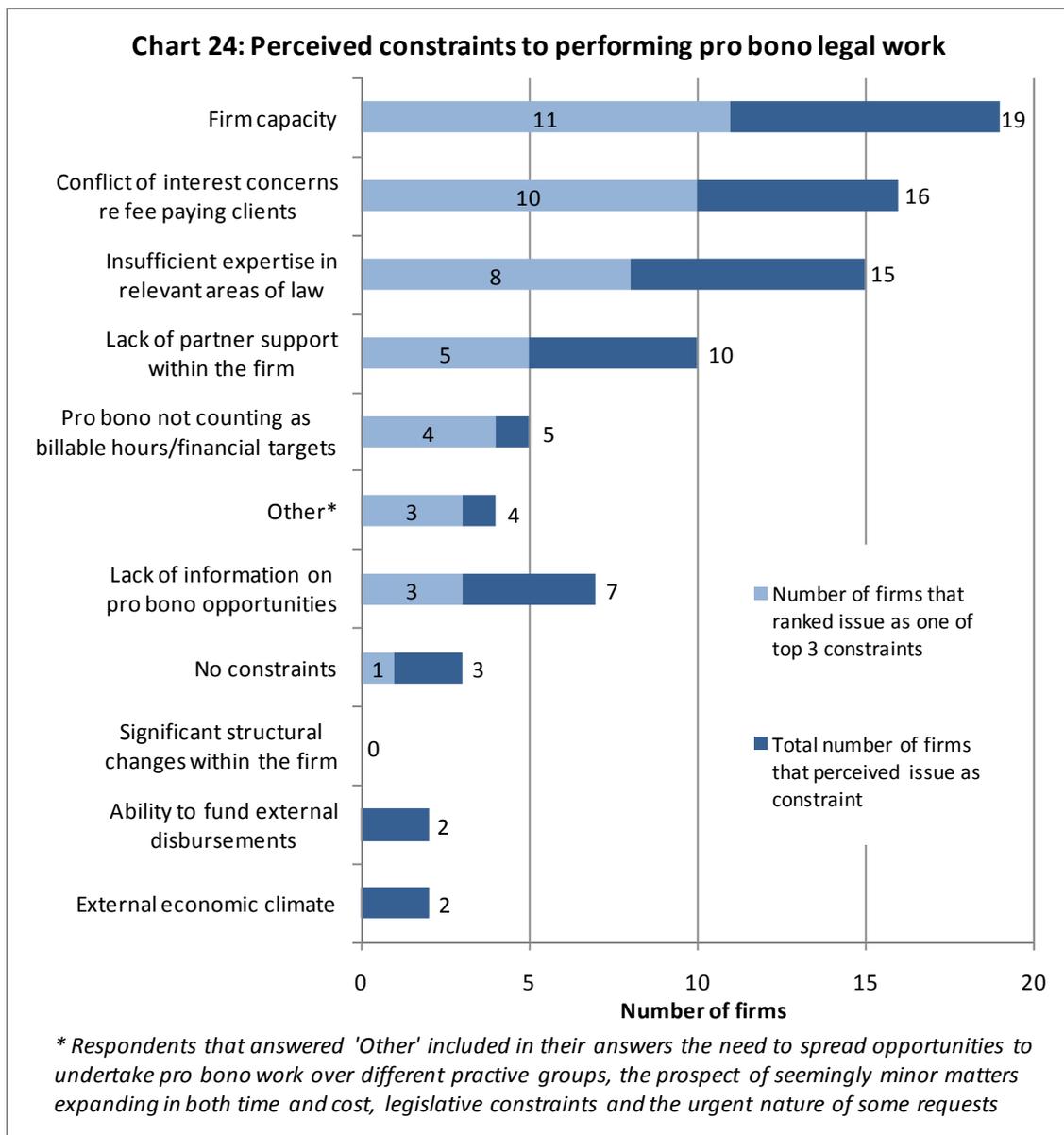
Table 5: Respondents' views on the efficacy of existing disbursement assistance schemes and possible improvements that could be made*

Views on and suggestions for disbursement assistance schemes
They are useful in assisting pro bono legal work.
Disbursements should be pre-approved. In most cases you can only apply once the disbursement has been incurred.
Keep it simple
The schemes are too cumbersome and the limits on disbursements for particular types of reports unrealistic in obtaining the reports you need.
It would be good to have a comprehensive disbursement scheme for Victoria and good to have less administrative hurdles to fulfil for all disbursement schemes.
Our general experience is that the application process is too time consuming, relative to the quantum of funds ever likely to be received.
Have not yet applied to the new scheme for international pro bono, administered by the Centre. Am concerned that the \$100,000 allocated by the Attorney-General will go quickly to only a few projects.
The Court scheme (Civil Proc Regs) is too cumbersome - definition of pro bono is too narrow (only Law Soc, Bar Assoc or Court referral matters) though not always confined in practice; requiring clients to sign waiver/postponement application for each filing fee is too hard where client may have disability, be unable to travel, etc and takes too much time, also required to pay back if receive costs order, often after settlement or matter resolved and can't claim on assessment if no present liability to pay. Many matters we take on fall outside the Law Society guidelines and so that assistance is often not available.
The Victorian scheme is of little use as lawyers see it as difficult to access.
Greater advertising of schemes and limited red tape in the application process. A refined set of criteria (targeted at particular types of work, for example) would assist the decision as to whether to apply for assistance.
Yes, the schemes are useful in assisting pro bono legal work

* Only seven firms had applied to a disbursement scheme in the last two years, and of these five provided responses above. Other respondents may have responded in relation to past experiences (over two years ago or at a different organisation) or in relation to reasons that their firms had chosen not to apply.

4.13 Constraints to pro bono work

The main constraint to doing pro bono work was firm capacity at 66% (n=19), followed by conflict of interest with fee paying clients 55% (n=16), insufficient expertise in relevant areas of the law 51% (n=15) and lack of partner support within the firm 35% (n=10). Three firms (10%) indicated there were no constraints to doing pro bono work.



In the 2008 survey, 'insufficient expertise in relevant areas of the law' was nominated as the biggest constraint to pro bono work. This was followed closely by 'lack of time' which can be seen as similar to 'firm capacity' (the response options were changed for the 2010 survey), and 'conflict of interest with fee paying clients'. Therefore 'insufficient expertise in relevant areas of the law' seems to have become less of a constraint while lack of capacity has become more of a constraint.

4.14 Training

Twenty-five firms (86%) provide training for their lawyers in areas of law that relate to advising pro bono clients. Areas of law in which training was provided varied greatly from wills, fines and sexual assault communication privilege to training on indigenous cultural awareness and dealing with people with a mental illness. All responses can be found in the table below.

Table 6: Training provided or arranged by firms in areas of law that relate to advising pro bono clients

Group	Training arranged or provided
Group A	Wills and probate, fines, residential tenancy issues, victims' compensation, dealing with mentally ill clients, social security law.
	Wills, human rights, tenancy, Centrelink, mental health, AVOs, etc
	All aspects of HPLS/HPLC
	Fines, Victims Compensation, DGR, tenancy
	Victims compensation in NSW and WA, estate planning for parents and carers of people with disability, sexual assault communications privilege, the PILCH training over a variety of areas
	Criminal law, VCT, Fines, local court advocacy, DV, credit and debt, mental health legal issues, homelessness and tenancy etc
	lawyers attend training for HPLC participation

Group A <i>cont'd</i>	Indigenous cultural awareness, dealing with people with mental illness, dealing with Stolen Wages matters, legal issues confronting homeless people including credit and debt, housing, social security, infringements. Tax Issues for NGOs & OHS issues for NGOs
	AVO's, Fines/SDRO procedure, acting for children as clients, human rights, International Humanitarian Law, International Criminal Law, criminal advocacy
Group B	Through existing training offered by CLCs/PIAC/PILCH for specific projects
	Aboriginal and Torres Strait Islander cultural awareness
	HPLS areas (various), coronial law. Other training such as Private Conservation Referral Service arranged externally but hosted by our firm (and our lawyers attend).
	For our particular programs, eg Homeless Persons' Legal Clinic and Cancer Patients Advisory Service
Group C	Only those areas in which the Firm specialises anyway, for its fee paying clients
	Mental Health Legal Centre work.
	Seniors Rights and Homeless Peoples
	Elder abuse law for Seniors Rights Victoria clinic
	Via Senior Rights legal clinic
	Personal injury
	For clinics - debt, credit, elder abuse, wills, probate, powers of attorney
	All areas of firms' practice
	consumer law, fines, superannuation, wills and guardianship applications
	Governance for nonprofits, hosting QPILCH training sessions
	Based on the service we support (e.g. for QCAT, provide training on QCAT)
Victims comp, housing, HPLS-related, refugee work, domestic violence	

Three of the four firms that did not provide training for their lawyers indicated that their lawyers would benefit from such training. As areas of law in which their lawyers would benefit from training the firms identified victims' compensation, fines, incorporated associations, charity laws, personal debt recovery processes and consumer protection laws.

4.15 Promotion and publicisation of pro bono work

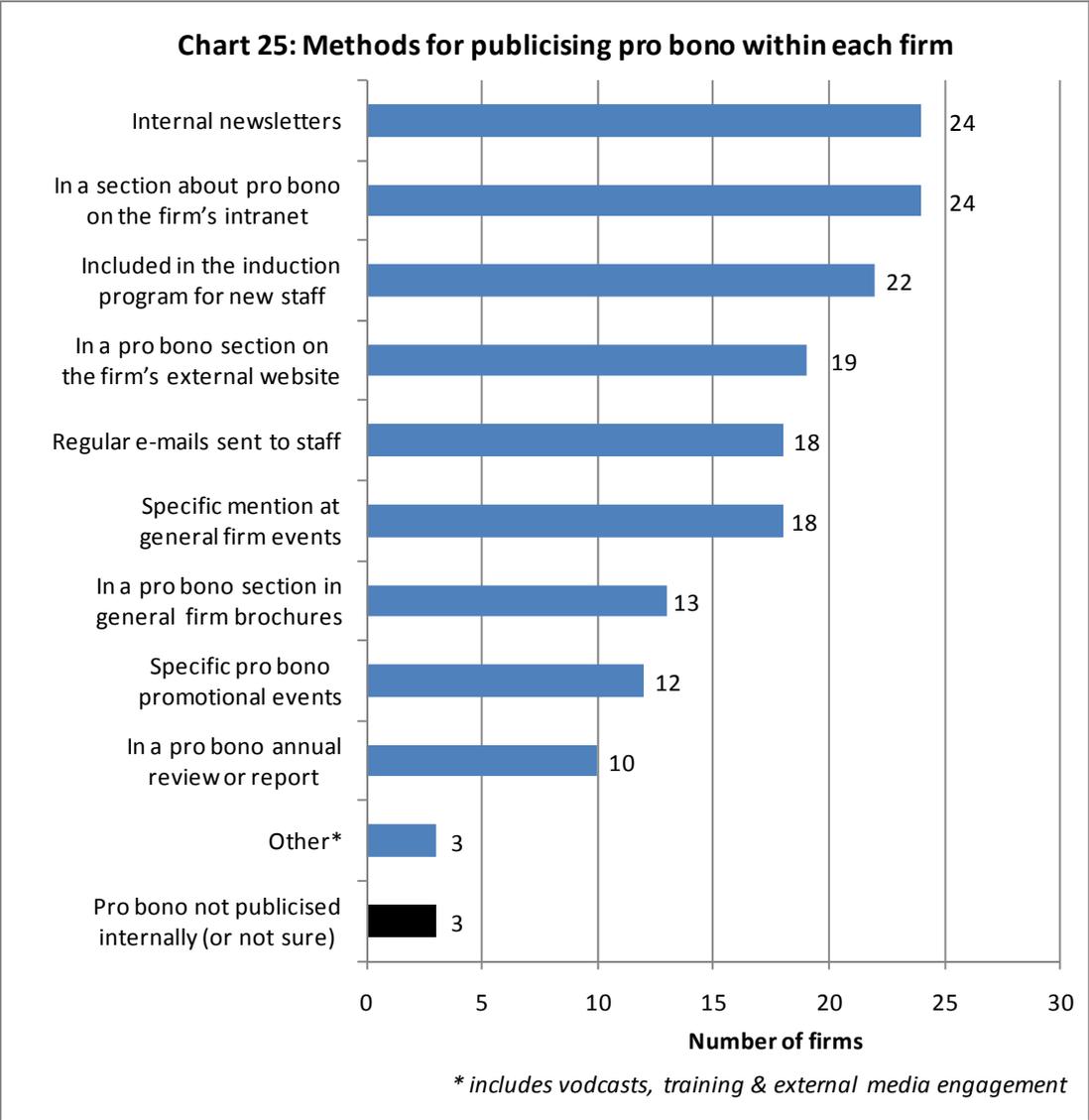
Pro bono is promoted widely both internally and externally by respondent firms. Twenty-six of the 29 firms (90%) promoted and publicised pro bono work done within the firm or by the firm as a whole in a variety of ways.

Twenty-four of the 26 firms (92%) made mention of pro bono in the firm's internal newsletters and in a section about pro bono on the firm's intranet. Nineteen firms (73%) made mention of the firm's pro bono activity on their external websites. Thirteen firms (50%) publicised pro bono work in a section about pro bono included in general firm brochures and 10 firms (39%) published a pro bono annual review or report.

In 22 firms (85%), pro bono was formally included in induction programs for new staff and 18 firms (70%) sent regular pro bono e-mails to all staff. Eighteen firms (70%) also made mention of pro bono activities at general firm events such as Christmas parties and annual partners' meetings. Just under half of the firms (12 firms, or 46%) had held some sort of pro bono promotional event.

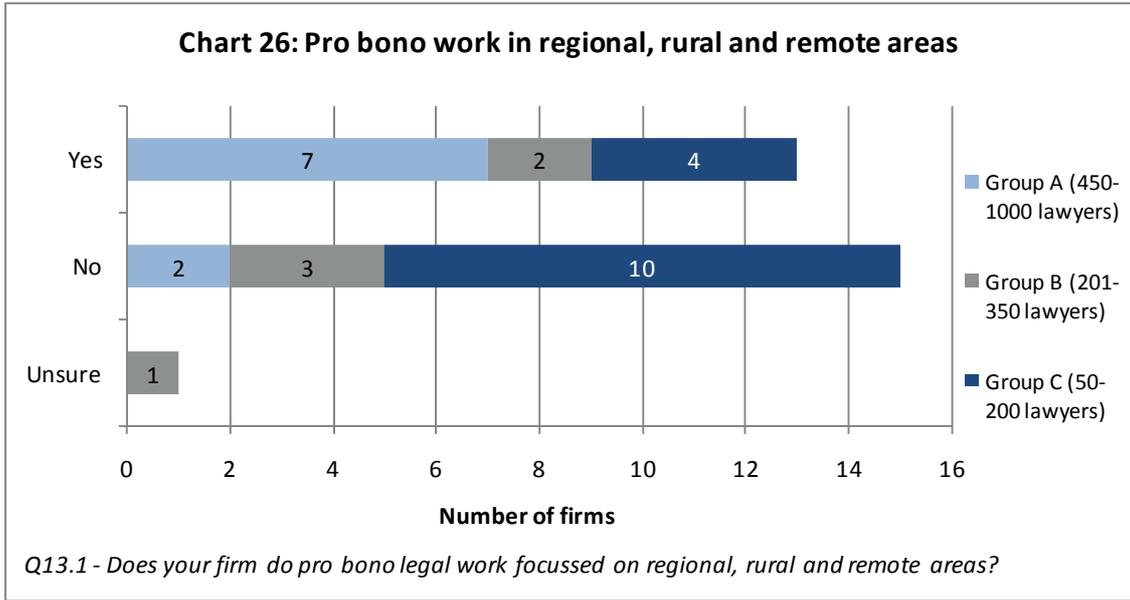
Results in the 2008 survey were similar, although more firms seem to publicise their pro bono work within the firm. In 2008, 80% (n=20) made mention of pro bono work in internal newsletters and the firm's intranet. Nineteen firms (76%) mentioned the firm's pro bono activities on their external website, and thirteen firms (52%) published a pro bono annual review or report.

In 72% (n=18) of firms, pro bono was formally included in induction programs for new staff and 52% (n=13) of firms sent regular e-mails about pro bono to all staff.



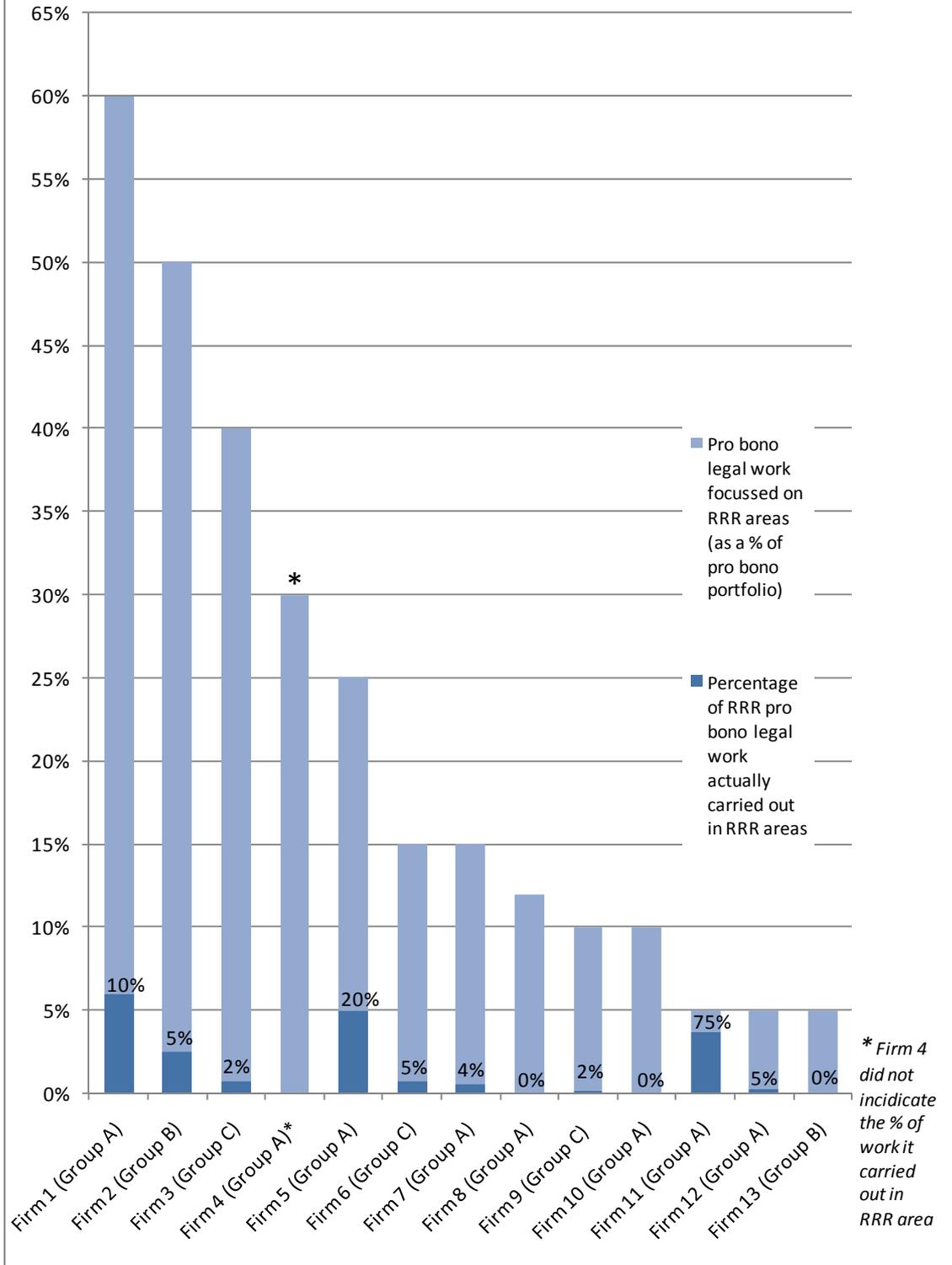
4.16 Regional, rural and remote pro bono work

Thirteen firms (45%) indicated that they do some pro bono work focussed on clients in regional, rural and remote (“RRR”) areas. The firms that did pro bono work in RRR areas were asked to estimate what percentage of their firm’s overall pro bono work (measured in hours) was focussed on clients in those areas. Responses varied greatly from 5% to 60%, with the median being 15%.



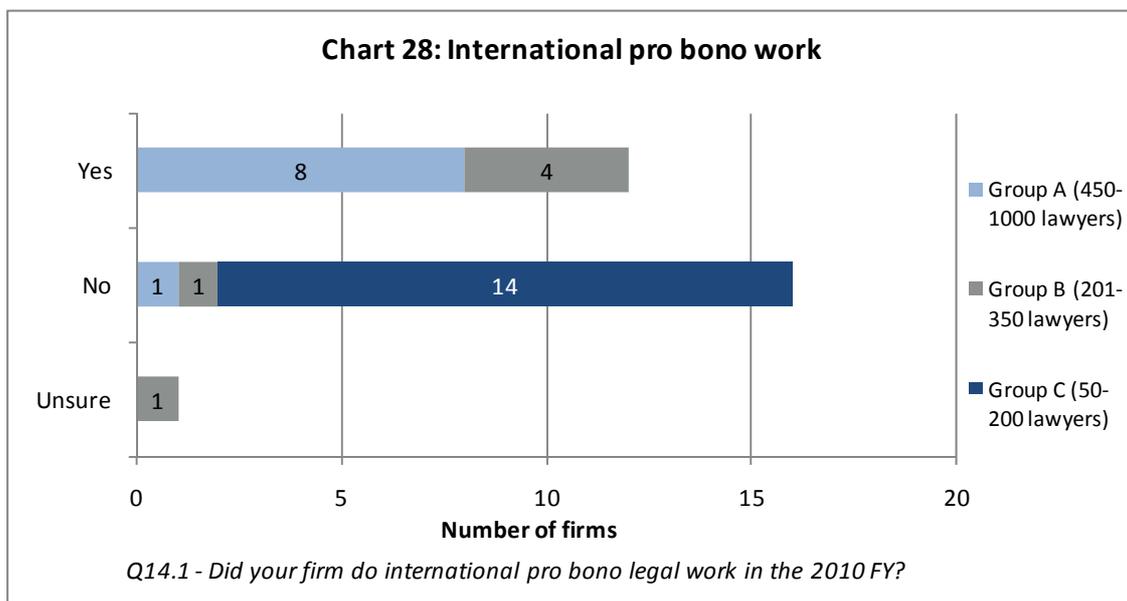
Firms were also asked what percentage of their work that is focussed on RRR clients is actually carried out in RRR areas. Twelve out of 13 firms were able to give an estimate, and again answers varied greatly from 0-75%, with the median being 4%.

Chart 27: Pro bono work undertaken on behalf of clients in remote, regional and rural areas as a % of total pro bono legal work (also showing work carried out outside Australia)

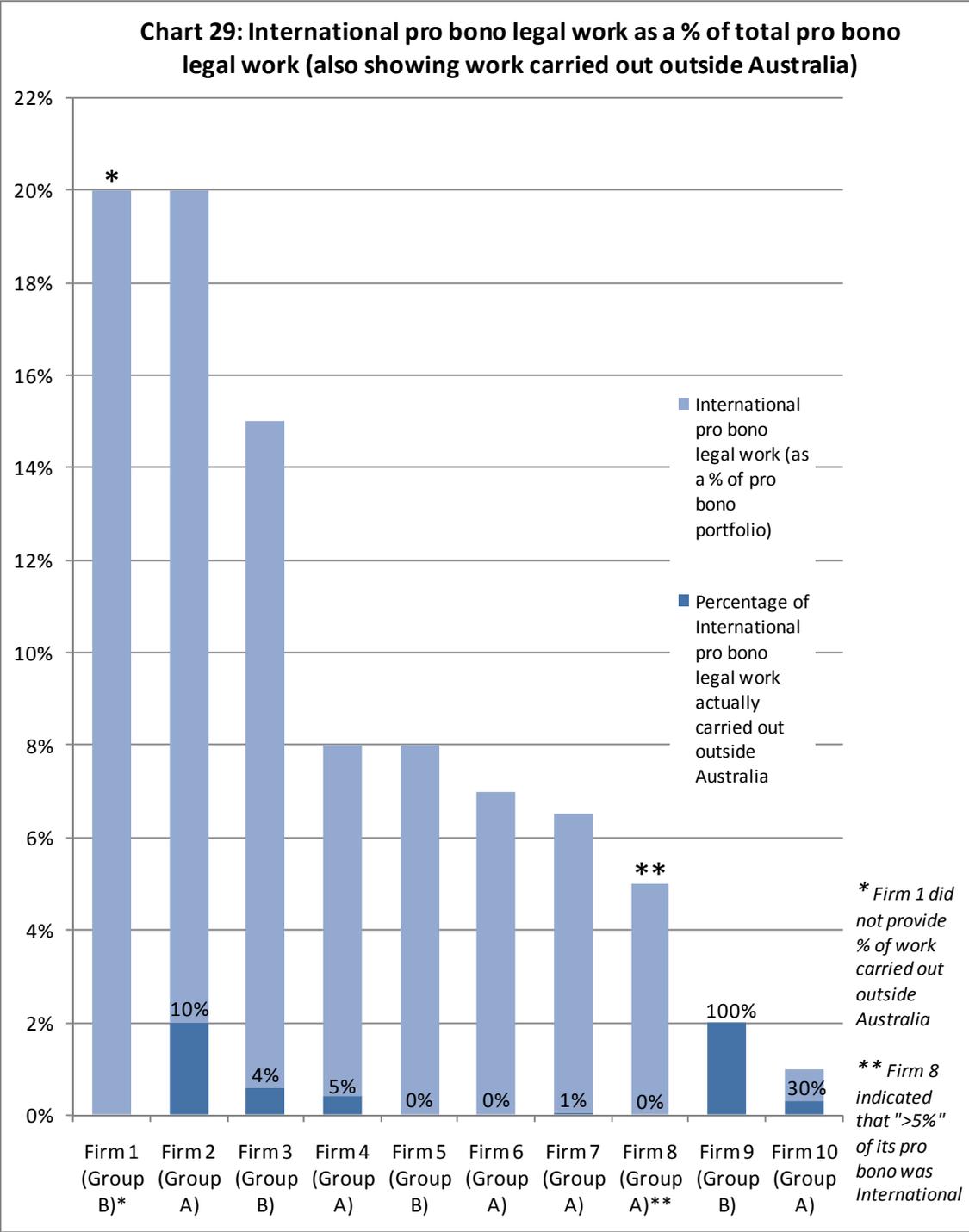


4.17 International pro bono work

Twelve firms (41%) reported doing international pro bono work in the 2009-2010 financial year. Ten out of those 12 firms estimated this as a percentage of their total pro bono work. Answers varied between 1-20%, with the median being 7.5%.



Nine out of the 12 firms were able to estimate what percentage of their international pro bono legal work was actually carried out outside of Australia. Responses varied greatly, with one firm reporting 100% of their international pro bono work (being 2% of the firm's overall pro bono work) being carried out outside of Australia.



Respondents were also asked where international pro bono matters taken on by their firm originate from. Nine out of 12 firms (75%) nominated Australian charities as a source of referral, six firms (50%) nominated international charities, four firms (33%)

nominated international referral agencies, and three firms (25%) nominated Australian agencies. Other sources of referral were Australian government contacts, international offices of the firm, existing partner contacts and foreign governments.

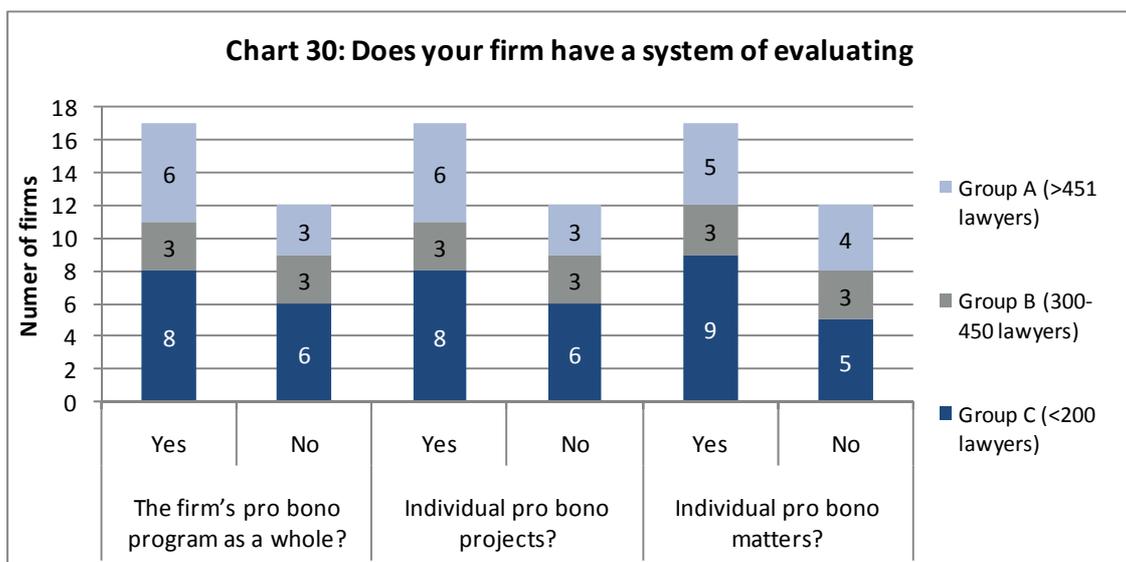
Table 7: Where do new international pro bono matters in your firm originate from?

	Australian charity	International charity	Australian referral agency	International referral agency	Overseas offices	Other
Group A (8 firms)	8 (100%)	6 (75%)	3 (38%)	4 (50%)	5 (63%)	
Group B (4 firms)	1 (25%)	0	0	0	1 (25%)	2 (50%)*

* 1 firm reported origination from Australian government contacts; 1 firm reported origination from existing partner contacts

4.18 Evaluating pro bono work

The survey also sought information on whether firms have a system of evaluating their pro bono programs. Seventeen out of 29 firms (58%) reported evaluating both their pro bono program as a whole as well as evaluating individual pro bono projects. Eighteen firms (62%) reported evaluating individual pro bono matters.



Firms were also asked to describe how they measure the success of their pro bono program. Responses were as follows:

- Detailed reports are considered by the governing board of the firm each 3 months (Group A)
- We have a number of measures of success including seeking feedback from clients, referrers and lawyers for qualitative review and considering number of hours, hours per lawyer, number of matters, adoption of our recommendations in law reform, attendees at CLEs etc. The measure of success depends on the project. Overall we do not consider we can properly measure the impact of the program other than on the individual clients and the firms support for pro bono. (Group A)
- The firm seeks feedback from some pro bono service recipients, and receives regular feedback from its major referral organisations. (Group C)
- Informal discussions with lawyers, clients and referral providers. (Group C)
- We set clear measurable objectives every 3 years and measure our performance against those objectives. (Group A)
- Self review, feedback, regular pro bono committee meetings (Group C)
- Feedback from recipients (Group C)
- There is a set of criteria which includes relevance of matters to our current referrers and media engagement. (Group C)
- Developing KPIs (Group A)
- Primary measure - staff feedback about the relevance of the program Close connection with PILCH makes it more likely that our services will be responsive to identified needs. (Group A)
- Individual matters and projects are reviewed by the National Pro Bono Manager, including discussions with the client and the lawyer/s, to assess success. There is quarterly reporting about significant projects and other activities relating to the program, and a review of results, including hours achieved and client feedback, by the senior management group at the end of each financial year. (Group B)

- Informal feedback from lawyers, clients and measuring statistics as to hours spent and outcomes/impact where known. No formal KPI's. (Group C)
- Feedback - clients and staff - Year by year analysis (Group C)
- Our evaluation processes are qualitative for the most part. While we track numbers of clients & hours, we give more emphasis to the outcomes achieved on a client's behalf as reflected both by objective outcomes (successful ruling/revocation/successful completion of transaction) and feedback provided from and on behalf of clients about the difference to them made by having legal representation. We also consult with staff regularly although largely ad hoc about their experiences of doing pro bono work. (Group A)
- We report practice group and whole firm performance against the target along with billable targets in our monthly production reports and report to the board on quantitative and qualitative measures bi-annually. We measure referral rates and sources, participation rates and budgets internally; seek feedback from stakeholders, particularly program partners and lawyers, on an ad hoc basis throughout the year and are beginning to implement a system for recording feedback from clients and participating lawyers at the conclusion of each matter. We review our processes, policies and discuss emerging areas of need in pro bono committee meetings every 2 months and are about to roll out a firm-wide survey of staff interests and engagement in pro bono; however our impact on legal needs is difficult to gauge and we have not yet identified KPIs for each program (Group B)
- The program has recently been in a state of flux. I am hoping to inject more structure into the program including seeking further feedback from our referral providers and recipients. I am implementing a yearly strategic review and the feedback will be part of this process. (Group B)
- In 2005 we agreed to work with a social scientist /academic who had been recommended to us by a leading NGO as having good experience in measuring the social impact of its projects. Our concern at the time was that we had little in place to measure the impact of our pro bono and community projects, our projects were generally described by reference to process and what we were doing, rather than outcomes.

We worked with him over a year to develop a simple logic model, a tool to be used in the planning design and management of our pro bono (and community) program and projects. The logic model required us to clearly identify as a starting point our objectives and the results that we hoped to achieve.

Logic models focus on the assumed causal relationships within a project i.e. - assumptions that particular inputs will allow particular activities to be carried out, which in turn will result in particular outcomes, and eventually in particular impacts on the pro bono target group (e.g. charities, young people etc). The model required us to identify an overall program goal that described the overall long term rationale for program.

Then the objectives which state more precisely what the program is expected to achieve (*e.g. community organisations will receive sound and comprehensive legal support and advice for their projects*). Inputs describe the tasks that we need to carry out to implement the program (*e.g. annual pro bono spend includes minimum 30% in assistance to community organisations in each centre*).

Verifiable indicators describe how the program objectives/outputs are measured and how and when the data will be collected. They provide the monitoring and evaluation framework for the program (*e.g. key informant interviews with samples of community organisations and internal admin record*). Wherever possible indicators are chosen from those presently available from databases used in the internal management of the program. Data/evaluation for every component of the framework will not necessarily occur annually but according to need and available resources. We view the framework as a 'dynamic' document that is designed to evolve over time. It is updated annually to include specific or new objectives for each year's action plan. (Group A)

- The firm does not actively seek feedback although often received feedback from clients (Group B)
- Regular reports to the firm's executive committee of partners. On a matter/project level, we follow up with clients for feedback but there is no formal review process. We receive feedback from QPILCH and other CLCs. (Group C)
- By reference to achievement of budget and aspirational target. (Group A)

- By assessing the number of positive outcomes reached with regard to matters taken on and through discussion with volunteer lawyers about whether we are achieving anything through the services provided. (Group C)

4.19 Commonwealth tender scheme

The survey sought to elicit information about the ‘pro bono conditions’ included in the *Legal Services Directions 2005* (as amended)²¹ and the respondents’ views on their usefulness and operation.

Sixteen firms (55%) had tendered for Commonwealth Government work under the *Legal Services Directions*. A further seven respondents (24%) indicated they did not know if their firm had tendered for Commonwealth Government work. Ten out of 16 firms (63%) found the ‘pro bono conditions’ in the *Legal Services Directions* to be useful (i.e. to promote pro bono as a professional obligation or to encourage law firms to do more pro bono legal work). When asked if respondents had identified any issues with the design or operation of the pro bono conditions, five firms gave the following responses:

Table 8: Issues identified by participating firms with the design or operation of the pro bono conditions required when tendering for Commonwealth Government work*

Issues identified
The reference to any standard (eg the Aspirational Target) is not a reasonable means to measure the quality or commitment of a firm to the delivery of pro bono services. It should be removed.
The C'th should not allow firms to assign an arbitrary value to non-legal community work. It is a nonsense. The Victorian scheme is also more effective because it is actively managed by DoJ. DoJ knows what each firm is doing and engages with firms about their pro bono practice.

²¹ In September 2008 the Commonwealth Government amended its *Legal Services Directions*, which are binding on all government agencies, to require each agency, when procuring ongoing legal services, to take into account the amount and type of pro bono work the law firm has carried out or will carry out, and whether the firm is a signatory to the National Pro Bono Aspirational Target.

My impression is that OLSC does not engage at all.
The pro bono conditions count community work as well as pro bono work. There are a few difficulties with this. We do not (and could not with any accuracy) measure non-legal work. Much of the non-legal work is done by non-lawyers who do not record time at all. More importantly, while it is legitimate for the Commonwealth to require its lawyers to fulfil their professional obligation to make the law accessible by considering the pro bono legal work of firms, there is no basis on which they should enquire about a firm's charitable or community activities unless they require this information from all those tendering for government work not just legal work. Finally, the most valuable contribution lawyers and law firms can make is to use their skills to make the law accessible. The Tender Scheme, in considering non-legal work, equates non-legal with legal work. It is counterproductive to encouraging pro bono legal work (which is generally harder, more time consuming and less interesting than community work).
It is difficult that the tender scheme considers non-legal pro bono work as one of the types of work that is recognised, as it is very hard to place a value on non-legal pro bono work.
We find the OLSC reporting template confusing and time consuming to complete. We received no acknowledgment last year of our report and did not see any collated data coming out of the reports. There is also some confusion arising from the definitions of 'pro bono legal work' and 'pro bono work'.

* Tendering under the Legal Services Directions 2005 (as amended to include consideration of pro bono legal work and the National Pro Bono Aspirational Target)

4.20 Other issues

4.20.1 What else would you like to tell us?

At the end of the survey, respondents were given the opportunity to provide further information on their firm's pro bono practice. The responses provided interesting information on challenges that firms had faced in the last financial year and highlighted the uniqueness of each firm's program.

Table 10: Responses to the question ‘Is there anything else that would be useful for us to know about your firm’s pro bono practice?’

Responses to question
Our firm shrank over the last financial year. Our number of hours per lawyer was based on the number of lawyers as at 1 July 2009. If based on the number of lawyers as at 1 July 2010 our hours per lawyer would be higher.
Our pro bono practice has grown since the launch of our scheme in 2004 and we are currently experiencing a further expansion of our capacity to provide pro bono.
Our firm has actually grown more than 10% in FTEs in the last financial year so it has been a challenge to increase average pro bono hours at the same rate, particularly where new lawyers are recruited to join the groups with very busy commercial practices and little capacity for pro bono work. At the same time, the firm has increased its staffing resources dedicated to pro bono so in the next financial year we expect to see a greater spread and breadth of pro bono, while also focusing on the quality and evaluation of that work.
We have only just established out pro bono committee following the success of other programs at other similar sized mid tier firms. The firms’ involvement in pro bono matters in a more structured way will surely improve moving forward
The figures in this response are based on year to date as at Dec 2009 (as discussed with your staff). The firm has a very strong community based program as well and we are in the process of trying to balance and coordinate the two programs.
The firm is appointed to the Victorian State Government legal services panel. Panel firms must carry out a fixed value of 'approved' pro bono legal work, around 5% to 15% of the total value of paid legal work provided to the State. The firm's pro bono program in Victoria is influenced by this requirement. A major emphasis in the firm's Victorian program is on pro bono matters that meet the State's criteria for approved causes.
Possibly one based on value of work
We have a dedicated practice - not just a coordinator - that both has carriage of matters and acts as an internal clearing house. We solely focus on litigation (no advice work, no secondments) and we have the practice because it aligns with our values, appeals to staff and raises the profile of the firm. There is no commercial incentive or requirement for use to perform this work.

It is being developed. This survey asks for information that is impossible to provide for a firm like ours that is still developing their pro bono program.

4.20.2 *What can the Centre do to assist you?*

Respondents were also given the opportunity to comment on the Centre’s work, and to make suggestions on how the Centre could best assist either an individual firm or the pro bono community.

Table 11: Responses to the question ‘Is there anything that the National Pro Bono Resource Centre can do to help your firm with its pro bono legal work or to assist the pro bono sector in general?’

Some Responses
Encourage consolidation of referral agencies nationally. Improve disbursement funding. Build pro bono capacity at mid tier firms.
Get more mid-tier firms involved and get better access to disbursements plus better links with other professions prepared to assist pro bono (eg accountants and doctors)
Act as an honest broker between CLCs and private law firms where a 'them and us' mentality still seems to exist at times. This could be improved by way of NPBRC as independent third party facilitating a workshop on effectively working together.
Continue to contribute to the International Pro Bono Advisory Group. Liaise with OLSC about the pro bono reporting template.
The Centre has been wonderful in fostering projects and undertaking analysis needed to highlight and profile the pro bono work of the profession. This has been helpful to us in generating interest and understanding of what we can do, the value of what we can offer, and what areas of need exist for pro bono services in the community.
Lobby to expand the definition of pro bono in Civil Procedure Regs for the purposes of the court disbursements scheme and so that pro bono assisted applicants only need to sign the one form at the start of the matter declaring their financial or pro bono represented status while their pro bono lawyer may complete the form thereafter and affirm that the client's financial situation has not changed significantly, to speed up the process for accessing that scheme.

Possibly hold a seminar for our firm's pro bono committee to inform them how to better focus pro bono activities
Facilitate greater sharing of intellectual property, ie cost agreements, practice structuring etc. More regular dissemination of information about practice focus areas to assist with pro bono referrals (where necessary). This could be by running more regular events in person.
No; doing a good job from our perspective

4.20.4 *The Australian Pro Bono Manual*

Twenty-five firms (86%) were aware of the *Australian Pro Bono Manual – A Practice Guide and Resource Kit for Law Firms*. The Manual was published by the National Pro Bono Resource Centre in collaboration with the Victoria Law Foundation in 2005(?). Twenty-four of those 25 firms (96%) believed a revised or updated version of the manual would be useful.

National Pro Bono Resource Centre

6 December 2010