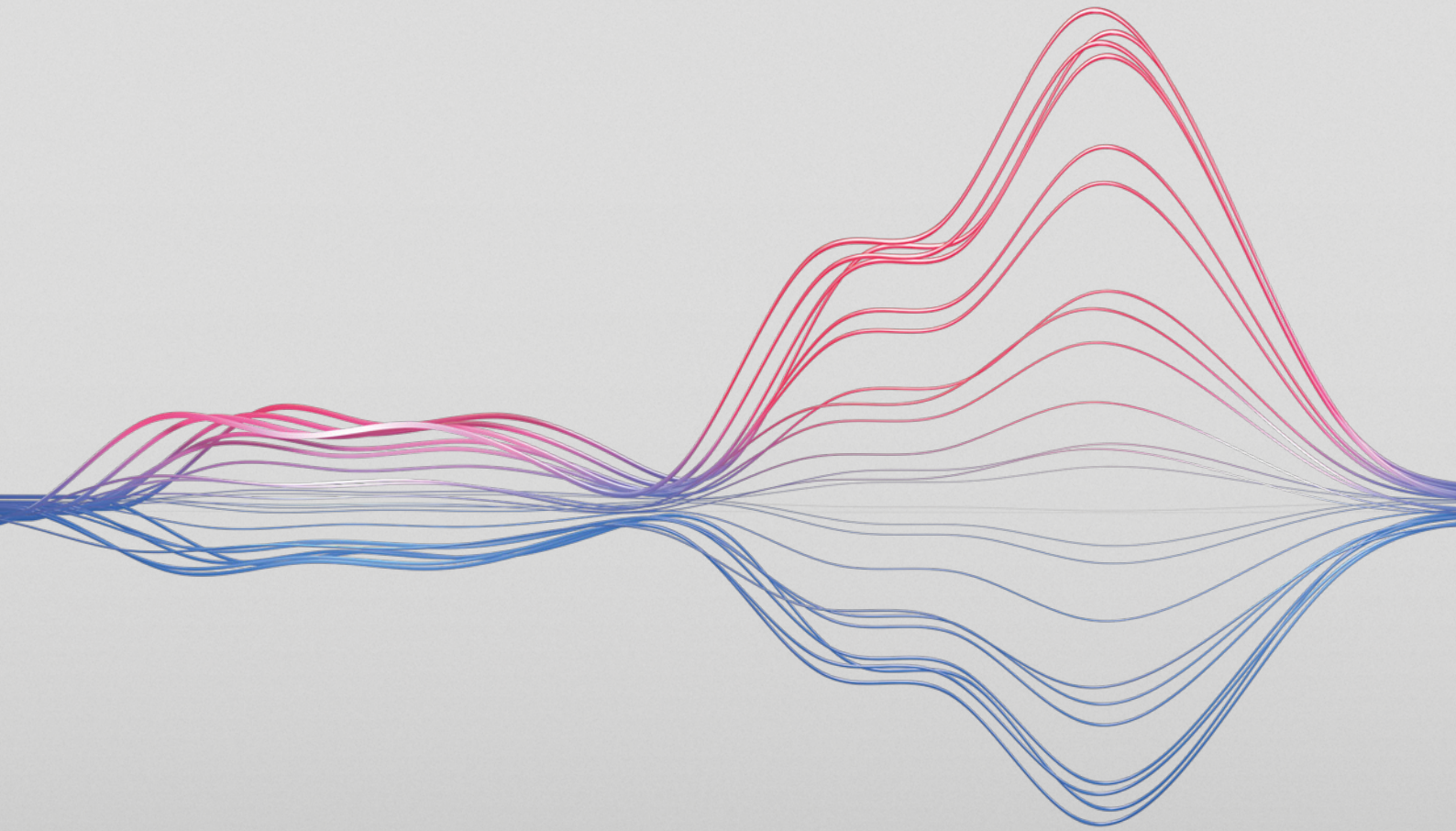
Report on the Nature and Prevalence of Pro Bono Partner Roles Globally

FEBRUARY 2020



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This report is a joint initiative of the Australian Pro Bono Centre (Sydney), Pro Bono Institute (Washington DC), the Thomson Reuters Foundation/ TrustLaw (London) and DLA Piper.

Through research we were able to identify 66 examples of dedicated pro bono partner roles in law firms globally.

A small group of these individuals (listed at the end of the report) were consulted in relation to the need for a report of this nature, and the scope of the report.

Following the consultation process, a set of draft survey questions were produced. The draft was provided to 14 individuals for comment and feedback. The final survey questions were issued on 15 October 2019. The survey closed on 19 November 2019. Responses were received from 44 individuals. Respondents to the survey were based in 22 cities in Australia, South Africa, the United Kingdom and United States.

The results are published in summary format with minimal commentary, to be as user friendly as possible, noting a key audience for this report is law firm leaders who prefer concise information. The organisations responsible for publishing this report are happy to be contacted to discuss the findings and a list of key contacts can be found at the end of the document.

It is quite possible that Hogan and Hartson (now Hogan Lovells) was the first firm to create a stand-alone pro bono practice headed by a dedicated pro bono equity partner in the United States in 1970. When I was promoted to partner in 2008, pro bono partners were still not common in Australia (where I was then based), and the proposal was regarded as quite radical by several people involved in the process. Since then an ever growing number of pro bono partner roles have been created and there are at least 66 known examples of dedicated pro bono partners in law firms globally. There is also a large cohort of lawyers who have worked in pro bono roles for ten years or more, who are reaching the stage of their career where consideration is being given to partnership opportunities. For most firms the appointment of a pro bono partner is a 'once in a generation' initiative, meaning there is no precedent or institutional knowledge in the firm to underpin the decision making process. This report looks at the nature and prevalence of pro bono roles within law firms as at December 2019, and contains a wealth of information that will be useful to pro bono lawyers and law firm leaders in determining the model best for them as we enter the next decade.

Nicolas Patrick
Pro Bono Partner
DLA Piper, London

Key findings

Number of pro bono partners

There are 66 known examples of dedicated pro bono partner roles in more than 55 law firms globally. For the purpose of this report, 'dedicated pro bono partners' is defined as those who spend 50% or more of their time on pro bono work.

Firm drivers for promotion

The key drivers for the firms' decision to appoint a pro bono partner were:

- Ensure pro bono is treated the same as billable work
- Client expectations and/or meeting the expectations of other external stakeholders
- Personal relationships/senior champion support for you personally
- Desire to grow or strengthen pro bono practice
- Risk management

Firm size

The firms that have appointed pro bono partners are predominantly firms that would be regarded as leading global or national firms (see Annexure 2), but they vary greatly in size and geographic coverage. The smallest firm included in the survey had a total of just 25 partners including the pro bono partner. There were several firms with dedicated pro bono partner roles with fewer than 40 partners in total.

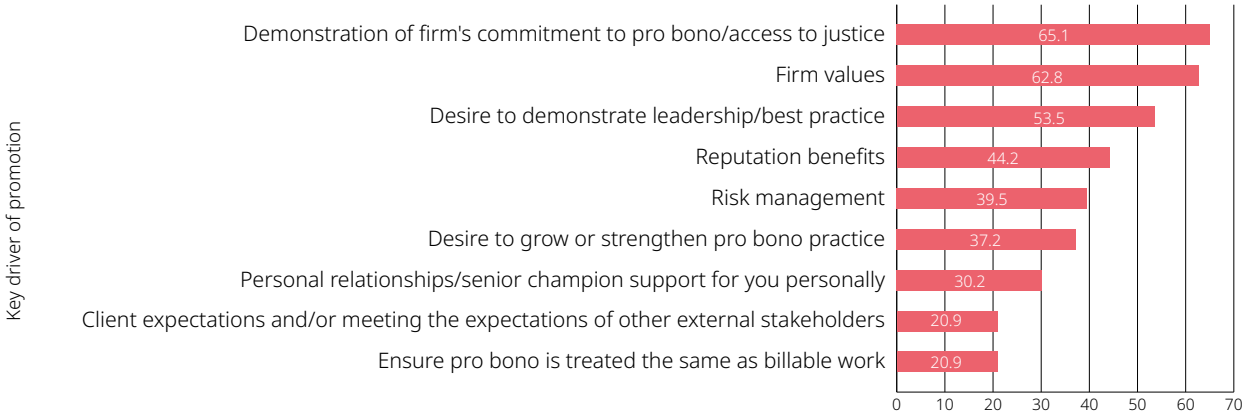
Pro bono partners exist within all partnership models including all equity partnerships, and alternative business structures (where the former pro bono partner has become a shareholder).

Salaried/equity models

Most pro bono partners (61%) are salaried or fixed share partners. Only 16% of those surveyed identified as equity partners with 5% being in firms with an all equity model. Others reported a blended approach with a portion of the salary being fixed and a portion being equity.

Roughly half of the respondents identified themselves as being the only example of a non-fee-generating partner in the firm. The other half of respondents are from firms where there are other non-fee-generating partners.

Key aspects of the business case at the time of promotion to partner



% of respondents nominating each category as a top 5 driver for promotion

Experience/expertise

On average pro bono partners had 12 years of post-qualification experience when they were promoted to partner. The average length of time practicing in a dedicated pro bono role at the time of promotion to partner was six years.

Most pro bono partners were pro bono lawyers who progressed to partnership through the internal promotion process. Others were laterally recruited from other firms or NGOs or were partners with a fee-generating practice who transitioned to a pro bono partner role.

Pro bono partners most commonly have a background in litigation before transitioning to pro bono roles, but the current cohort includes lawyers with a wide variety of prior expertise. Just 10% of current pro bono partners went directly into public interest law roles after graduation, and reported having no commercial experience. The majority of pro bono partners have developed specialised expertise in areas relevant to their pro bono practice, including: immigration, discrimination, human rights, access to justice, housing, Indigenous issues, civil rights and legal education.

Growth in pro bono hours before promotion to partner

Respondents were asked about the size of the pro bono practice at their firm when they joined and the size of the practice at the time of their promotion. It is interesting to note that in most cases no material growth was reported, and in several cases there was a reported reduction in the size of the pro bono practice in the years leading up to the promotion, suggesting that most firms did not see growth in pro bono hours as relevant to the promotion, even though as mentioned below, a key aspect of the pro bono partner role is the generation of pro bono instructions.

"In many countries we are acting for vulnerable clients in our pro bono practice. Our duty of care to these clients is higher than in relation to the more sophisticated clients we represent in our billable practice. In our view, this necessitates that we have partner oversight of the pro bono practice."

— Survey Respondent

Risk and compliance

Several respondents referred to risk management and compliance as a part of their role.

Reputation

61% of respondents agreed there is a significant correlation between the reputation of the firm's pro bono practice and the reputation of the individual leading the practice.

"Having a pro bono partner supports our strategic objectives as a firm relating to people, clients, values, culture and vision."

— Paul Jenkins, Global Managing Partner, Ashurst

Number of promotions by decade

The table to the right shows the number of known pro bono partner promotions/appointments each decade, based on responses to the survey (please note this data is incomplete, as all current known pro bono partners did not respond to the survey during the window period for responses).

DECADE	PRO BONO PARTNER APPOINTMENTS	IN EXISTENCE
1980 – 1989	> / = 1	> 1
1990 – 1999	> 5	> 6
2000 – 2009	> 18	> 24
2010 – 2019	> 21	> 45

Geographical data

There were 21 reported pro bono partner appointments in the last decade. Of these:

- 11 were in Australia
- 2 were in South Africa
- 8 were in the USA

There are currently 10 pro bono partners overseeing pro bono in the UK. Of these:

- 3 are at global firms (Ashurst, Dentons[1], DLA Piper)
- 7 are at US firms (Seyfarth Shaw, Duane Morris, Crowell & Moring, McDermott Will & Emery, Cooley, Holland & Knight, Dechert). In addition, Mayer Brown had a pro bono partner based in London who retired in 2014.

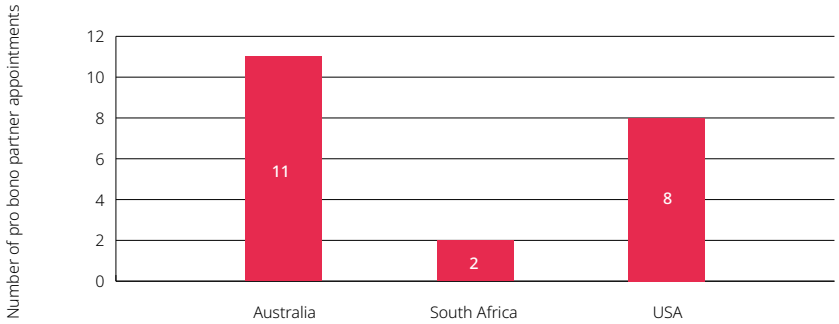
None of the UK magic circle firms or UK national firms currently have a pro bono partner (although Allen + Overy did have a pro bono partner based in London who retired in or about 2014).

Two Australian firms, Clayton Utz and Gilbert+Tobin, each have two dedicated pro bono partners. These firms were the first firms in Australia to employ dedicated pro bono lawyers (1997). Clayton Utz was also the first firm in Australia to appoint a dedicated pro bono partner (2005).

The South African firm, Webber Wentzel, was the first firm in South Africa to appoint a dedicated pro bono partner in 2003. It now has three dedicated pro bono partners.

The USA currently has the largest number of pro bono partners >30.

Geography of pro bono partner appointments 2010-2019



[1]Dentons US pro bono partner is chair of the Dentons global pro bono committee and is active in the London pro bono community.

The promotion process

In the case of 55% of respondents the process for the promotion of a pro bono partner was the same as for all other partners.

Respondents were asked who supported or championed their promotion. In the vast majority of cases the managing partner or CEO was identified as being the key individual championing the proposal. Other key supporters included the chairman, board members, HR director and senior equity partners. One respondent stated the support of a visionary leader is crucial to the success of the promotion proposal. Annexure 1 to this report contains a list of quotes explaining the key enabling conditions for the promotion of a pro bono partner and a separate list describing the main barriers and how they were overcome.

A minority of firms (just 13 in total) acknowledged taking into account external market data when deciding whether to create a pro bono partner role. For each of those firms the trends in the external market were said to be a 'significant factor' in their decision. Interestingly many of these firms were early adopters of this model, and this suggests that law firm CEOs were more likely to be motivated by the competitive opportunity to be a leader in the market than by a desire to conform to market trends.

"We didn't produce a business case. We understood that appointing a pro bono partner was the right thing to do."

— Danny Gilbert, Managing Partner, Gilbert + Tobin

Structure

Reporting lines

Most pro bono partners (55%) report into the managing partner or CEO.

The next most common reporting line (45%) was into the chairman or the board.

Other less common structures included reporting into a pro bono committee or COO or practice group leader. Several pro bono partners have more than one reporting line.

Size of pro bono team

There are at least six law firms that currently have more than one pro bono partner. Of these, three are global law firms, two are Australian firms and one is a South African firm. A further four firms with one pro bono partner already in place stated they were proposing to appoint a second partner into their pro bono practice.

The average size of the pro bono team working under the direction of a pro bono partner is:

- Legal 2.8 FTE (with a range of 0-20)
- Non-legal 1.9 FTE (with a range of 0-15)

Remuneration

Remuneration for pro bono partners is most commonly based on personal performance (60%). A minority of respondents (9%) reported their remuneration increases automatically (pegged or lock step). The level of remuneration for pro bono partners was not included in our survey as it was outside the scope of this report.

"Having a pro bono partner is consistent with being a values-based firm. It connects us meaningfully with the community. Is also demonstrates respect. Respect for the work that is being done, and for the individual leading the practice."

— Genevieve Collins, Chief Executive Partner, Lander & Rogers

Responsibilities

For the purpose of this report, we have only included dedicated pro bono partners, defined as those who spend 50% or more of their time on pro bono work.

70% of pro bono partners in this category have no income generating practice.

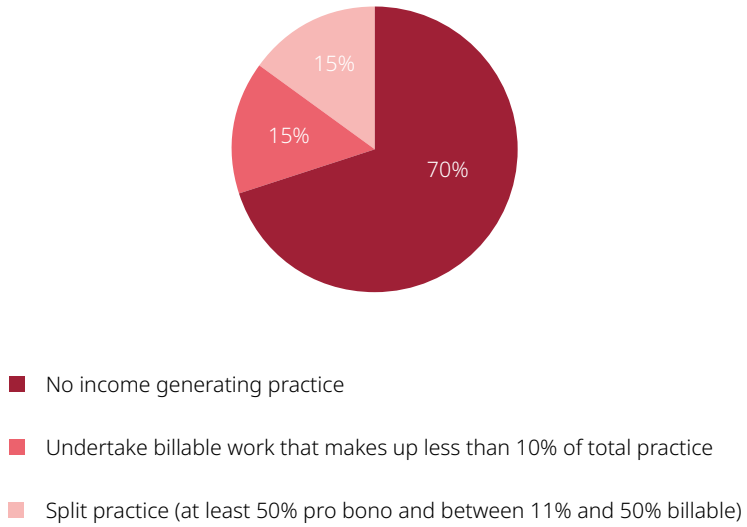
85% of pro bono partners in this category have no income generating practice or undertake billable work that makes up less than 10% of their total practice.

Just 15% of pro bono partners have a split practice (at least 50% pro bono and between 11% and 50% billable). The individuals in this category were mostly in smaller firms, i.e., those in the bottom quartile in terms of headcount for the purpose of this study.

Some respondents also have other responsibilities including for example overseeing community initiatives, sustainability etc.

% of dedicated pro bono partners* that have fee earning vs pro bono practices

**those who spend 50% or more of their time on pro bono work*

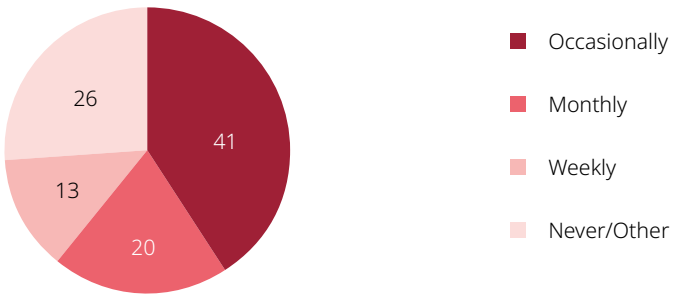


The most commonly cited responsibilities of the pro bono partner are:

- Being an advocate for pro bono;
- Generating a pipeline of pro bono work/Supervising pro bono work;
- Thought leadership;
- Acting for pro bono clients;
- Engaging with the firm's commercial clients.

Pro bono partners reported engaging with the firm's commercial clients.

% of pro bono partners engaging with the firm's commercial clients



Benefits

Respondents were asked to reflect on the benefits of having partner status. A selection of the responses is reproduced below:

"Cements pro bono as a key practice area of the firm, hence able to exercise greater initiative."

"The title of Partner has provided me with credibility and the ability to convince some of the most reluctant attorneys at the firm (i.e., the other partners) to take pro bono seriously. Perhaps even more than that, I think that elevating me to Pro Bono Partner has improved the firm's status in pro bono."

"Improved my visibility and connections in the firm, increased my compensation, increased my billable work. Opened up new networks, board member opportunities."

"Greater authority and autonomy to make decisions regarding the direction of the practice, more independence in matter management, interaction with other partners on a more even playing field."

"In many ways the day to day job did not change too much for me, in terms of conducting and supervising files, and managing our pro bono practice. What has changed is the greater involvement with the firm's leadership and management, particularly after 2014, when the Pro Bono National Practice Group was created, with me as one of the firm's 14 NPG Leaders, alongside the heads of Litigation, Real Estate, Corporate M&A etc."

"Being a partner has given me the confidence and credibility to approach my work in a different way. Within the firm I feel more able to participate in strategic decision making on an equal footing with other firm leaders. This has benefitted the business by increasing diversity of thought and perspective within the partnership. In terms of the external market, being a partner has raised my personal profile, given me a level of assumed seniority over my peers at other firms, provided access to high level discussions from which firms without pro bono partners are excluded, and enabled the transformation of our pro bono practice by opening doors and providing access to larger clients and more complex, impactful work. In the years since becoming a partner I have worked closely with the heads of bar associations and law societies, chief justices in many jurisdictions around the world, prime ministers, attorneys-general and other government ministers in several countries, the heads of UN agencies, and the GCs of several global businesses. I have had the privilege to work collaboratively with people in all of these roles on a regular basis and I have no doubt that many of these opportunities were only possible as a result of the credibility that comes from the firm's brand and reputation in combination with the title of partner, which immediately conveys authority and competence."

Contacts

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Hannah Rose	Pro Bono Partner	Sparke Helmore
Kevin Curnin	Pro Bono Partner	Stroock & Stroock & Lavan
Nicholas Glicher	COO	Thomson Reuters Foundation
Glen Tarman	Director of TrustLaw	Thomson Reuters Foundation
Odette Geldenhuys	Pro Bono Partner	Webber Wentzel

Annexure 1

Key enabling factors

What were the key factors that enabled your promotion to the partnership?

"My length of time at the firm. I had built up and managed the pro bono practice for a number of years and had brought in staff to the practice. Staff and partners across the firm were very supportive and proud of the practice. I also had a successful commercial practice (alongside the pro bono practice) and good client relationships so I was able to refer to a significant track record based on a number of factors in my partner application."

"At my first firm it was the need for a partner to supervise a large practice covering areas of law that were not within the expertise of the rest of the firm. The size and scope of the practice and the need for it to be led at partner level. At my later firm it was the growth of the practice, desire to continue to lead the development of pro bono practice and recognition of the fact that I had been in the pro bono partner role for a long time before joining the firm."

"The impactful nature of my practice. The public profile of my practice. Hard work, dedication and long hours (we do meticulous time keeping exactly like our fee earning colleagues)."

"Associate and law student interest in pro bono. Success of this model in peer firms. Managing partner making pro bono a strategic goal for the firm."

"Leadership and vision. Success within our firm. Commitment to pro bono."

"Respect for the work that I was doing. I was supervising a significant number of associates and counsel on cases, so I think that the firm thought it appropriate to promote me."

"A strong sense that through dedication and commitment, I had formalised an important practice for the firm that had always existed as part of the firm's ethos but in informal way."

"Very supportive managing partner. Board with real dedication to pro bono & community work."

"My performance – the firm was really ready for new and creative ideas and projects, and I came up with a lot of them that were well-received and have flourished."

"Internal support from key and influential equity partners – relationships that had been built over considerable time. Proof of performance – growing the pro bono practice from essentially nothing to what it is today and many of the partners had also seen the quality of my legal work. The fact I supervise legal work was essential. I was already managing the pro bono team as Special Counsel so it was also a risk issue not to have a partner in that role."

"Managing partner and Board Chair support. The scale of our pro bono practice and the need to ensure that it had a permanent voice in the partnership. A desire to be first among Australia's large law firms."

"Performance of the pro bono practice. Culture shift within the firm about pro bono. Support from partners. External market. Value that commercial clients place on pro bono."

"I believe my international experience in pro bono played a factor. My profile as a pro bono leader was another key factor."

"Firm's desire to demonstrate commitment to pro bono work in a more significant way and my willingness to transition from full partner status to a salaried position."

"Senior champions supporting my business case. Client expectations. Size of pro bono practice. My external profile was very high. Australian government requirements had just been introduced.""

Barriers

Pro bono partners were asked to reflect on the barriers to promotion and how they were overcome. A majority of respondents stated there were no internal barriers, but a selection of responses from those who faced barriers are reproduced below:

"The key barrier was the fact that the path to partnership for a pro bono lawyer is on a road less travelled. I didn't generate fees at the time and effectively still don't, so the promotion needed to be assessed from a different angle. Upon consideration of my contribution to the firm at the time it was clearly accepted that for a lawyer in my position generating fees is irrelevant."

"The main barrier is getting attention on the issue. This requires advocacy, diplomacy, advice from colleagues through the Association of Pro Bono Counsel (APBCo), data, client partnerships, and outside offers."

"This was the first time a pro bono lawyer was promoted to partnership, rather than having another partner notionally responsible for the pro bono practice. As this was a new concept, it required 'socialising' amongst the partners. Also, some partners didn't think it was necessary to have a partner in this role. These barriers were overcome largely by demonstrating the fact that I supervise substantive legal work. The support that I had from other partners in the firm also helped to overcome this issue."

"There was a perception by a minority of partners that this was a "soft role" that the firm did not need. It was overcome with a demonstration of what my role actually was, and how challenging the work was, so that partners understood what was involved beyond the one or two pro bono matters they supervised themselves. There was also a sense that my heart must not be in partnership because I was a pro bono lawyer. That was overcome by presenting to the Partnership Review Committee and the Board alongside all other candidates for that year, and being assessed favourably relative to my peers."

"The firm had never had a pro bono partner before. Promotion required a culture shift within the firm and proof of the value of the pro bono practice."

"The main barrier is "He's doing this work well now as is, so why make him a partner?". In the end it comes back to values, fairness and recognition."

"The key barrier was that we had one practice group leader who objected to the proposal. Our CEO proceeded on the basis that the promotion required leadership consensus, so everyone had to be persuaded of the business case. The business case for these roles is really strong, so it was a matter of being able to articulate the business case very concisely. For strategic purposes my partnership proposal did not include any salary increase so this neutralised any opposition based on budget implications/affordability."

Annexure 2

List of law firms

The firms listed below have appointed a dedicated pro bono partner, although in the case of a small number of these firms there is currently no partner in the pro bono practice due to lateral moves, retirement, change in structure/approach or death.

AKERMAN	COLIN BIGGERS & PAISLEY*
AKIN GUMP*	COOLEY LLP*
ALLEN + OVERY	CROWELL & MORING LLP*
ALSTON & BIRD	DECHERT*
ARNOLD BLOCH LEIBLER*	DENTONS*
ASHURST*	DLA PIPER*
AGS*	DUANE MORRIS LLP*
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ*	FASKEN MARTINEAU
BAKER MCKENZIE*	FRAGOMEN, DEL REY, BERNSEN & LOEWY
BASS BERRY & SIMS*	FREIDIN BROWN
BLANK ROME LLP*	GILBERT + TOBIN*
BROWNSTEIN HYATT FARBER SCHRECK	HALL & WILCOX*
BUCKLEY LLP*	HOGAN LOVELLS*
CLAYTON UTZ*	HOLLAND & KNIGHT LLP*
CLIFFE DEKKER HOFMEYR	HWL EBSWORTH*

JONES DAY	NORTON ROSE FULBRIGHT*
KILPATRICK TOWNSEND*	PROSKAUER ROSE
KING & SPAULDING	RUSSELL KENNEDY LAWYERS*
LANDER & ROGERS*	SEYFARTH SHAW*
LOWENSTEIN SANDLER*	SHEPPARD MULLIN*
MANATT, PHELPS & PHILLIPS	SPARKE HELMORE*
MATTOS FILHO	STROOCK & STROOCK & LAVAN*
MAYER BROWN	SUTHERLAND ASBILL & BRENNAN
MCCARTER & ENGLISH, LLP*	WEBBER WENTZEL*
MCDERMOTT WILL & EMERY*	WERKSMANS
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO*	WILEY REIN LLP*
MORGAN LEWIS	WOTTON + KEARNEY*
NIXON PEABODY	ZUCKERMAN SPAEDER

*indicates the firm responded to the survey

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