

Back row (L-R): Sean Lally, Luke Morrissey, Daisy Skerritt, Nafisa Trisha, Karie Mayman, Meher Mehta, Ankita Rao

Front row (L-R): Kirstyn Ho, Georgia Brigg, Alexis Edinburg, Nieshanka Nanthakrishnakumar, Gayathri Balaji, Catherine Nguyen, Vivian Fan

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# Setting up a pro bono practice - Greenfields to 48 hours per lawyer in two years

By Frances Dreyer and Kathryn Bertram

Johnson Winter & Slattery established its pro bono program in 2019. In two years they reached 48 pro bono hours per lawyer. They were late to the party, but have devoted concentrated effort to establish the practice and foster a culture of participation and recognition.

Frances Dreyer, Litigation Partner, established the practice. She now shares practice leadership with Kathryn Bertram, Tax Partner, and they are assisted by coordinators Jade Tyrell, Senior Associate, and Veronica Gregory, Associate. Frances and Kathryn kindly agreed to share their firm's journey over the last two years.

## Our focus

A key aspect in establishing the pro bono practice was being clear about what would fall within our work and what would not. We developed a strict focus on helping low income, disadvantaged and marginalised people in the Australian community. We have recently also expanded this to allow us to take on some environmental work.

Adhering to this focus has meant we decline many matters, and in the beginning we needed a process to shift away from other non-chargeable work. However, it has built internal respect for the practice.

## Establishing a pro bono practice

In our initial period, our focus was on “set up” and developing a culture focused on social justice work.

The first step was appointing a pro bono partner to lead the process with a direct line to the Managing Partner. It was then a matter of laying the foundations to create a successful practice. This work included:

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- Getting internal buy-in: We consulted internally (including by a whole of firm survey) to identify the types of work and causes we should focus on. This included working closely with management to develop the direction, limits, risks and budget. We presented to the entire partnership on the cultural and business case.
- Gathering market information: We met with pro bono partners from other firms, as well as representatives of many community legal centres, Legal Aid branches, charities and social enterprises, to learn from their experiences and understand where the “gaps” were. We attended presentations from the Australian Pro Bono Centre and asked a lot of questions.
- Policies and procedures: Creating very clear selection criteria, ensuring all pro bono work would be recordable and treated equally to billable work for all internal purposes, and addressing the detail e.g. resourcing, file opening etc.

Joining key sector organisations, such as Law Access and Justice Connect, was an important step in our growth. Working closely with these organisations gave us an instant avenue to access the types of pro bono matters we wanted to work on.

It was then a matter of just testing the waters. We did this by:

- Taking referrals for smaller matters in areas our lawyers were confident in.
- Taking referrals from other firms.
- Cold calling a large number of small grass roots social enterprises and charities (such as The Social Outfit) and offering a relationship.
- Trying our first secondments (strategic litigation at PIAC and Law Access in WA).
- Speaking with charities some partners already did work for and offering to expand the relationships.
- Testing out a number of relationships and options - some did not work and some did.
- Involving the Managing Partner, including in selecting matters and discussing risks and costs. The practice had to be “owned” from the top.

We took a “one state at a time” approach ensuring the partners

**“We took a “one state at a time” approach ensuring the partners in each office really “owned” how the practice was developed in their state.”**



in each office really “owned” how the practice was developed in their state. We have one more state left to build.

Throughout the process, we were not focused on the National Pro Bono Target but rather on being realistic. We chose not to get monthly “hours” reports or track our hours. This was critical, because it allowed us to focus on building something authentic. We acknowledged at the outset that it would take more than 12 months to establish the type of practice we wanted, and set realistic expectations with management. We acknowledged that too much too soon could backfire (including because we needed to keep wide support for the business case).

By the end of year one we had achieved over 20 hours

*JWS Associate Sean Lally delivers a presentation on workplace rights to a class of Year 12 students at McCarthy Catholic College, Tamworth*

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per lawyer, which was a win in our eyes. The next step was to grow in a meaningful way which kept our focus on “gaps” in the market and work which provided tangible assistance. We managed this in our second year by:

- Establishing clinic programs and links with community legal centres in Melbourne and Adelaide.
- Building further relationships with charities and community legal centres (more “cold calls”).
- Deepening our relationships with existing clients, so we are “first call” on legal issues.
- Establishing a number of new secondments where we saw community need (such as in relation to tenancy matters and employment).
- Taking on “harder” and “bigger” matters for individuals and organisations from referrers, including going on the record in litigation.

In this second year we achieved 48 pro bono hours per lawyer, and increased the complexity and depth of our work.

Ben O'Mara selfie



### Driving participation

Pro bono work is recognised within the firm for all management purposes - a lawyer’s “capacity” and “utilisation” includes pro bono hours - no compromise. It is also a matter expressly considered in the annual performance review process for lawyers.

We also prepare monthly Pro Bono Highlights to share details of the pro bono work being undertaken throughout the firm in order to showcase our skills and encourage others to participate in the

program. This was especially important in the early stages of the program. The responses to these were amazing and we found staff at all levels wanted to get involved.

Our Chairman and Managing Partner are behind participation and this is also key.

Our next goal is to get 100% of partners involved in pro bono work.

### What drove such rapid growth?

Probably a combination of everything discussed. If we had to call out the biggest factors they would be:

- There was excitement for the practice, and support, consistently across multiple levels in the firm. Senior management made it clear that pro bono was important, the partnership group was on board and our lawyers were keen to be involved.
- Looking to build deep relationships with charities and CLCs so we become a dependable and reliable “legal partner”.
- Always asking our community partners “what they want”, really trying to understand their context and responding to requests like we would any other client.
- Setting up permanent secondments which community partners can rely upon for long term resourcing.
- Setting up clinic programs which see senior lawyers “partner” with more junior lawyers to provide direct client advice.
- Recognising the type of files which were less popular in other pro bono programs and looking to fill that need, such as tax matters, enforcement of judgements, corporate and governance matters, insurance matters for individuals, matters against credit and financial institutions, and long matters (one of our first litigation matters is still ongoing in the Supreme Court of WA). ■



**Frances Dreyer** (Litigation Partner) specialises in Federal and Supreme Court litigation with a focus on claims related to financial products, accounting irregularities and the health sector. Frances manages large scale and business critical disputes litigation with careful and strategic focus. She is recognised by clients as “truly outstanding” and as a long term partner who “goes above and beyond in servicing her clients. She is smart, thoughtful, pragmatic and commercial” (Asia Pacific Legal 500, 2021). In addition to her commercial practice she established the JWS pro bono practice, and leads it as joint pro bono partner on an ongoing basis.



**Kathryn Bertram** (Tax Partner) specialises in tax risk management (including reviews, audits, ADR and litigation) and state taxes. She has advised on disputes in relation to the R&D tax incentive, losses, capital gains tax, the General Anti Avoidance Rule (Part IVA), transfer pricing, permanent establishment, land tax, payroll tax, transfer duty and valuations. Kathryn also advises clients on the implications of various state taxes including corporate reconstruction relief, transfer duty, landholder duty and land tax. In addition to her commercial practice, she is joint pro bono partner.

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