

Pro Bono Infrastructure

TrustLaw is regularly asked by firms who have nascent or fledgling practices how they can strengthen their pro bono engagement, or by those who have existing practices how they can do more pro bono. One of the driving forces behind the development of the Index was to be able to respond to these requests with more than just anecdotes.

The Index asks respondent firms about the structures they have put in place to embed a pro bono culture within their organisation and ensure that pro bono matters can be managed and performed efficiently. The Index has tracked the presence of these elements and the impact on pro bono engagement levels within firms with the objective of developing a list of elements that constitute a pro bono practice, along with an indication of how successful these elements are.

Defining Pro Bono Infrastructure

The Index defines **pro bono infrastructure** in the following ways:

- A **pro bono coordinator** means a point person or team within a firm that has oversight of administration, coordination and / or assigning of pro bono matters
- A **pro bono committee** is a body whose role is to evaluate potential pro bono matters and / or take a lead on pro bono policy and strategy issues
- **Pro bono policies** are internal policies designed to guide or set minimum standards for pro bono practices.

No two firms treat the role of pro bono coordinator or committee, or the function of the pro bono policy, in exactly the same way. However, these elements are used as the basis of the way that firms facilitate pro bono for their staff.

Findings

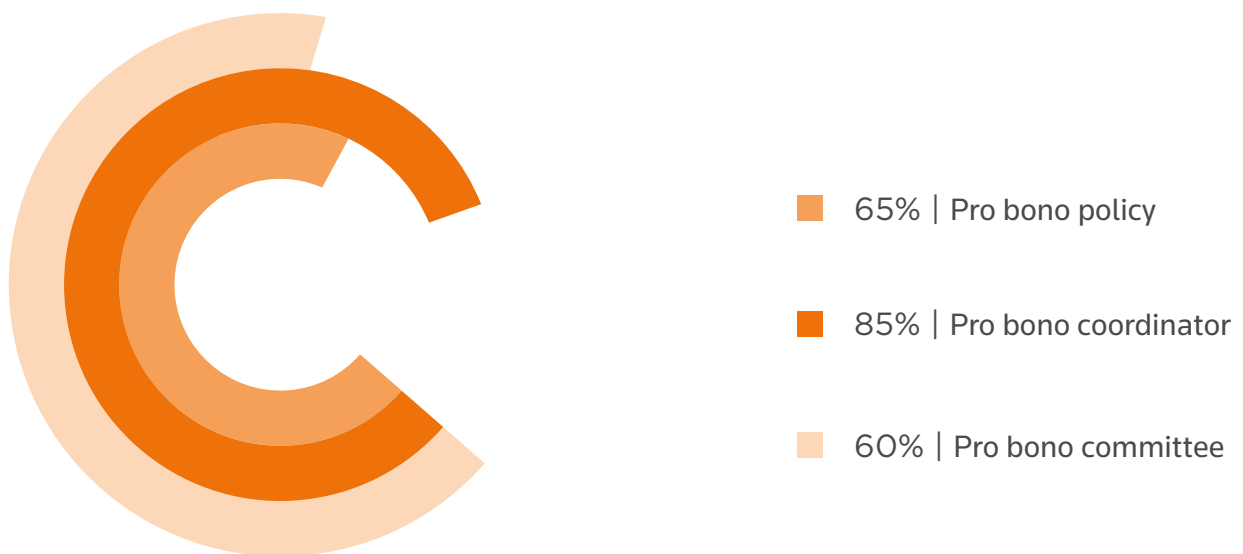
The findings illustrate that **doing something to facilitate pro bono was more important than trying to do everything**, and that judicious use of limited resources was paramount in trying to encourage a flourishing pro bono practice.

Across all respondent firms, the vast majority have at least one element of pro bono infrastructure in place. A total of 89.6 percent of firms have at least a pro bono coordinator, a pro bono committee or a pro bono policy. Amongst Large Firms, this percentage increases to 98.4 percent, while for Small and Medium-sized Firms this drops to 82.2 percent and 81.5 percent respectively.

Only 48.5 percent of the respondent firms had all three elements of pro bono infrastructure in place. Amongst Small Firms, this figure dropped to 24.4 percent. With fewer lawyers and fewer matters to coordinate internally, Small Firms seemed to need less structure to manage their pro bono practice compared to Medium-sized Firms and Large Firms where 44.4 percent and 67.7 percent respectively have all structures in place.

PRO BONO INFRASTRUCTURE

PERCENTAGE OF RESPONDENT FIRMS WHO INDICATED THEY HAVE THE FOLLOWING ELEMENTS OF PRO BONO INFRASTRUCTURE IN PLACE:



Across all firms, the findings suggested that the average pro bono hours and the average proportion of lawyers performing 10 or more hours of pro bono increased when the firm had at least one of a pro bono coordinator, a pro bono committee or a pro bono policy in place.

Amongst Small Firms, only 17.8 percent of respondents have no elements of pro bono infrastructure in place. The impact of the presence of pro bono infrastructure was clear - the average hours of pro bono performed by fee earners fell to 33.6 from 43.6 and the average percentage of lawyers performing 10 or more hours of pro bono dropped to 42.9 percent from 58.7 percent when there was no element of infrastructure in place (compared to having at least one constituent part of pro bono infrastructure).

These falls were even more significant amongst Medium-sized and Large firms without any elements of pro bono infrastructure in place. At Medium-sized Firms, average hours dropped to just 3.7 from 33.2, and the percentage of lawyers performing 10 or more hours of pro bono fell to 8.7 percent from 30.9 percent. At Large Firms average hours fell to 1.5 from 35.7 and the proportion of lawyers performing 10 or more hours of pro bono decreased to 2.6 percent from 26.7 percent when there were no elements of pro bono infrastructure.

Interestingly, it seems to be more important to have at least one element of pro bono infrastructure present than it does to have all three elements. Across the entire data set, 48.5 percent of firms had all elements of pro bono infrastructure in place compared to 89.6 percent who had at least one element in place. Yet, the average number of pro bono hours performed by lawyers at firms with all elements of pro bono infrastructure was only marginally higher than that of those with just one element in place (37.7 hours compared to 37.3 hours). Furthermore, the average proportion of lawyers performing 10 or more hours fell to 30.8 percent from 35.5 percent.

Pro Bono Policy

The presence of a pro bono policy had a significant impact on the average pro bono hours performed by lawyers. Lawyers at firms with a pro bono policy performed an average of 44.8 hours of pro bono over the last 12 months compared to 14.7 hours at firms that did not.

The Index found 65.2 percent of respondent firms had a formal pro bono policy in place. Amongst Small Firms, the findings of the Index showed that only 45.5 percent had a policy, whilst this rose to 55.6 percent amongst Medium-sized Firms and 89.6 percent of Large Firms. It was clear that Large Firms considered a pro bono policy more important than their peers and it is arguable that a policy is more important to articulate a unified approach to pro bono where the firm is larger and it is less easy to monitor all activity.

PRO BONO POLICY

PERCENTAGE OF RESPONDENT FIRMS WHO INDICATED THAT THEIR PRO BONO POLICY COVERS THE FOLLOWING TOPICS:



The majority of respondent firms, 97.7 percent, said their pro bono policy covered the attitude and intent of the firm. In addition 80.5 percent of respondent firms stated the policy set out the eligibility requirements for pro bono clients. More Large Firms also set out the role of the pro bono committee in their policy (69.2 percent) compared to the average across all firms (59.8 percent).

Pro Bono Coordinator

The presence of a pro bono coordinator was found to have a strong link to the amount of pro bono performed with lawyers at firms with a coordinator performing 38.7 hours of pro bono on average compared to 17.4 hours at those without.

The Index found 85.1 percent of respondent firms said they had a pro bono coordinator. Although Small Firms were less likely to have a coordinator compared to Medium-sized and Large firms (73.3 percent compared to 81.5 percent and 95.2 percent respectively), most firms have such a position irrespective of their size.

Across all respondent firms, only 7.3 percent with a pro bono coordinator said this person had a non fee-earning role within the firm as well as working on pro bono and CSR matters. The majority, therefore, focus on a combination of pro bono, broader CSR initiatives and fee-earning matters.

ROLE AND RESPONSIBILITY OF PRO BONO COORDINATOR

PERCENTAGE OF RESPONDENT FIRMS WHO INDICATED THAT THEIR PRO BONO COORDINATOR HAS THE FOLLOWING RESPONSIBILITIES:

17%	19%	34%	23%	7%
Pro bono, CSR and fee-earning	Pro bono and broader CSR	Pro bono matters or administration only	Pro bono and fee-earning	Pro bono, CSR and non fee-earning

Interestingly, 41.9 percent of pro bono coordinators at Small Firms retain fee-earning responsibilities compared to 23.8 percent at Medium-sized Firms and 12.3 percent at Large Firms. Amongst pro bono coordinators at Large Firms, 52.6 percent work solely on pro bono matters and pro bono matter administration with no non-pro bono responsibilities at all, compared to 19.0 percent at Medium-sized Firms and 9.7 percent at Small Firms.

The majority of firms, 85.8 percent, also had a partner responsible for pro bono although in some cases this will be the same person as the pro bono coordinator. Pro bono partners represent the interests of the pro bono practice at the highest echelons of the firm and ensure there is senior buy-in for pro bono amongst the firm's partnership. The presence of a pro bono partner has a significant link to pro bono engagement levels within firms. Lawyers at firms with a pro bono partner performed 38.3 hours of pro bono on average compared to 18.5 hours at firms without. The Index found 35.9 percent of lawyers at firms with a pro bono partner perform 10 or more hours of pro bono compared to 27.8 percent at firms without a pro bono partner.

Pro Bono Committee

Most respondent firms, 60.2 percent, had a pro bono committee, an increase on the 2015 Index when 47.1 percent of respondents were found to have a committee. Amongst Small Firms 34.1 percent had a pro bono committee compared to 59.3 percent of Medium-sized Firms and 79 percent of Large Firm respondents.


ROLE OF PRO BONO COMMITTEE

PERCENTAGE OF RESPONDENT FIRMS WHO INDICATED THAT THEIR PRO BONO COMMITTEE HAS THE FOLLOWING RESPONSIBILITIES:

89% Strategy and policy



68% Approval of pro bono clients



68% Approval of pro bono matters



55% Administration of pro bono programme



20% Other



Across all respondents, an unexpected finding was that **lawyers at firms with pro bono committees performed less pro bono on average than those at firms without a committee** - 34.3 hours compared to 36.4 hours. This difference became more pronounced amongst Medium-sized Firms where lawyers at firms with committees performed 19.2 hours on average compared to 40.2 hours at firms without a committee.

The same trend did not hold true amongst Medium-sized Firms when looking at the average proportion of lawyers performing 10 or more hours of pro bono, where 31.1 percent of lawyers at firms with pro bono committees performed 10 or more hours of pro bono, compared to 21.7 percent at other firms. Across all respondents, on average 38.7 percent of lawyers at firms with pro bono committees performed 10 or more hours of pro bono compared to 31.1 percent of lawyers at firms that did not have committees.

It can be argued that the presence of a pro bono committee is not designed to encourage greater pro bono levels directly, but rather to ensure that a culture of pro bono is embedded within the firm and more people are involved with pro bono initiatives. This would likely have a knock-on effect on levels of pro bono engagement, and might explain why average pro bono hours is not impacted in the same way that the proportion of lawyers performing 10 or more hours of pro bono is.