

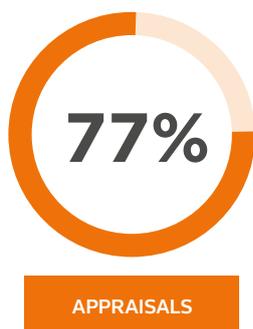
Incentivising and Rewarding Pro Bono

Alongside building structures into law firms to facilitate pro bono work, a large number of firms also seek to incentivise and reward lawyers for undertaking pro bono work. The performance of lawyers is typically evaluated not only on the quality of their work product but also the hours they have worked and the revenue they have generated (their utilisation). Many firms, therefore, have tried to ensure their lawyers will not feel penalised based on either of these measures for taking on pro bono matters. There are a number of ways that firms do this:

- By taking pro bono matters into account for appraisal and compensation processes, law firms can help ensure not only that lawyers devote the same level of diligence and enthusiasm to pro bono matters that they do to fee-earning matters, but also ensure that lawyers do not feel that they are penalised or disadvantaged (financially or otherwise) by taking on pro bono matters in the place of fee-earning matters
- By having pro bono targets or by building pro bono matters into fee-earning or utilisation targets, lawyers are encouraged to do more pro bono work and again will not feel penalised for doing so – particularly if working on pro bono matters does not jeopardise financial incentives provided by the firm.

INCENTIVISING PRO BONO

PERCENTAGE OF RESPONDENT FIRMS WHO INDICATED THAT THEY FACTOR PRO BONO INTO THE FOLLOWING PROCESSES TO INCENTIVISE PRO BONO:



Appraisals

Factoring pro bono into appraisals can have a positive impact on pro bono engagement amongst lawyers. It is arguable to suggest that lawyers will take on more pro bono matters, and the matters performed to the highest standards, if their work is appraised similarly to fee-earning matters.

The findings showed the majority of firms (77.2 percent) factor pro bono into the appraisal process for lawyers. Amongst Small Firms, this figure dipped to 62.8 percent while for Medium-sized Firms this figure rose to 69.6 percent. Amongst Large Firm respondents over nine in 10 factor pro bono into the appraisal process for lawyers (90.2 percent).

Factoring pro bono into the appraisal process seems to impact the amount of pro bono. Lawyers at firms that took pro bono into account completed 40.2 hours of pro bono on average compared to 20.7 hours at firms that did not.

Although less frequent than for more junior fee earners, 56.2 percent of respondent firms factored pro bono into partner appraisals which rose to 72.4 percent amongst Large Firm respondents. The impact on partner pro bono engagement levels suggests that **building pro bono into partner appraisals is worthwhile**. On average, partners for whom pro bono was taken into account during the appraisal process performed 28.5 hours of pro bono compared to 21.4 where it was not. Similarly, 43.3 percent of partners performed 10 or more hours of pro bono when it was factored into their appraisals, compared to 38.7 percent when it was not.

Compensation

Law firms employ a number of different mechanisms to calculate compensation. It is typically a combination of seniority, performance and utilisation. A large number of firms around the world expressly include pro bono matters in this calculation – in some cases all pro bono work is included, in other cases it is only a certain number of pro bono hours, and at yet more pro bono is only taken into account once a minimum level of fee-earning hours have been met.

Taking pro bono into account for compensation assessments does seem to be a significant incentive for lawyers in terms of the amount of pro bono they perform. The Index found 60.9 percent of firms took pro bono into account when assessing compensation levels for lawyers – a figure which rose to 83.6 percent for Large Firms. On average, at firms where pro bono was taken into account, lawyers performed an average of 39.3 hours of pro bono, compared to 28.5 hours at firms that did not. This difference was even greater at Large Firms where the average hours was 38.3 at firms that did take pro bono into account and only 14.9 at firms that did not.

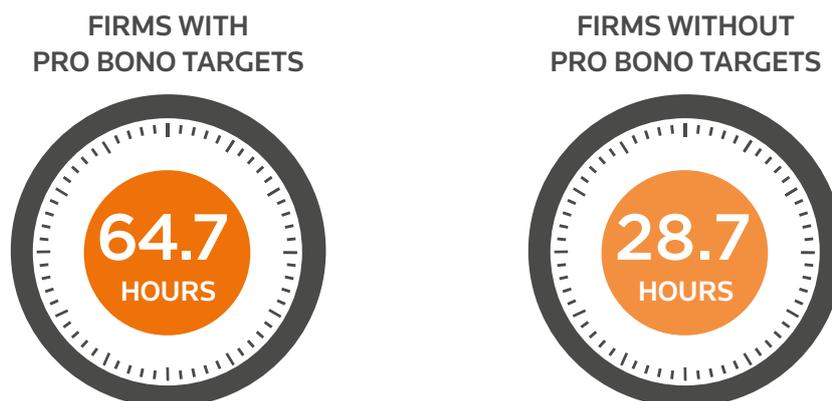
Of note is that only 37.7 percent of respondent firms factored pro bono into compensation for partners – and amongst Medium-sized Firms this figure dropped to 14.8 percent. This figure was lower than the proportion of firms that factored pro bono work into partner appraisals, indicating that compensation processes are far more rigidly tied to commercial performance than appraisals.

Targets

The Index found 70.9 percent of firms had a fee-earning or utilisation target in place, whereas only 34.3 percent of respondent firms reported having a pro bono target in place.

PRO BONO TARGETS

AVERAGE PRO BONO HOURS RECORDED PER LAWYER:



Some firms have instituted pro bono targets, both mandatory and aspirational, requiring lawyers in their organisation to perform a minimum number of pro bono hours. For a large number of firms (82.1 percent of respondent firms) pro bono hours were also built into fee-earning or utilisation targets, ensuring that lawyers were rewarded, or at the very least not penalised, for taking on pro bono matters. Where targets are not in place or built in to utilisation, firms may jeopardise establishing a strong culture of pro bono as lawyers may ultimately miss out on the rewards that hitting utilisation targets bring as a result of their pro bono efforts, such as bonuses.

The Index found 45.3 percent of firms treated pro bono hours in the same way that fee-earning hours were treated for the purposes of targets, whilst 23.2 percent credited pro bono hours up to a maximum threshold. This latter figure increased to 40.0 percent among Large Firms. Across the entire data set 17.9 percent of firms did not take pro bono hours into account at all for utilisation targets, a figure that rose to 35.3 percent amongst Small Firm respondents.

The presence of a pro bono target had a significant impact in the average pro bono hours performed at Small Firms (64.7 hours for those with a target compared to 28.7 hours for those without). However, for Medium-sized Firms and Large Firms, such a target had very little impact on pro bono hours. These pro bono targets also had limited impact on the proportion of lawyers performing 10 or more hours of pro bono (39.6 percent at firms with a target compared to 32.3 percent at firms without), which suggests that targets may not be the best tool to encourage engagement, but rather may be better to reward and acknowledge the efforts of those already undertaking pro bono.

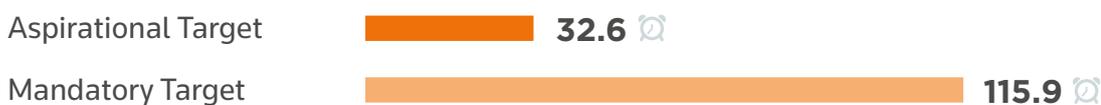
For those with a pro bono target, 58.7 percent stated that their target was aspirational rather than mandatory and therefore there was no penalty or recourse if the target was not met. Interestingly, as many as 71.4 percent of Medium-sized Firms state that their targets were aspirational, far more than their Small Firm and Large Firm peers.

Having a mandatory target had a significant link to the average pro bono hours performed. At firms with a mandatory target, lawyers performed an average of 65.5 hours of pro bono, compared to 31.7 hours at firms where the target was aspirational.

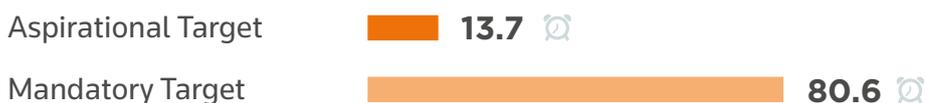
PRO BONO TARGETS AND THE AVERAGE NUMBER OF PRO BONO HOURS

AVERAGE PRO BONO HOURS RECORDED PER LAWYER:

Small Firms



Medium-sized Firms



Large Firms

