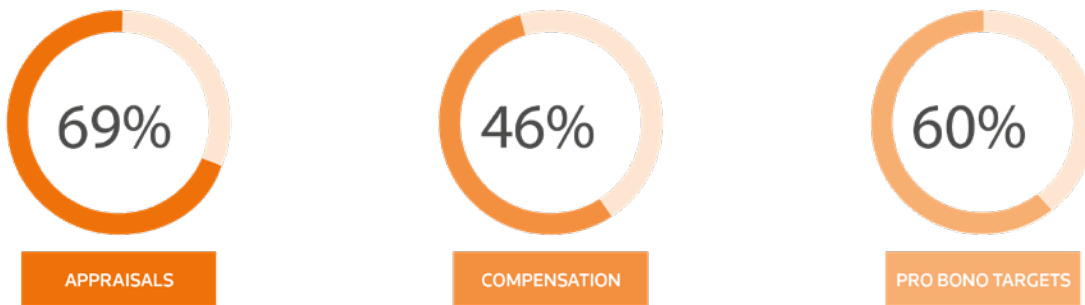


F. INCENTIVISING AND REWARDING PRO BONO

INCENTIVISING PRO BONO

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



Alongside building structures into law firms to facilitate pro bono work, many 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 (which we refer to as their utilisation). Many firms, therefore, have tried to ensure that their lawyers will not feel penalised based on either of these measures as a result of taking on pro bono matters.

There are several ways that firms do this:

- ✓ By taking pro bono work 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 that they do to fee earning work, but also that lawyers do not feel that they are penalised or disadvantaged (financially or otherwise) by taking on pro bono rather than fee earning work

- ✓ By implementing pro bono targets or by including pro bono work into fee earning (utilisation) targets, lawyers are encouraged to do more pro bono work and, again, will not feel penalised for doing so – particularly if pro bono work does not jeopardise financial incentives instituted by the firm.

APPRAISALS

Factoring pro bono into performance appraisals may have a positive impact on pro bono engagement among lawyers.

The findings show that 69 percent of all respondent firms factor pro bono into the appraisal process for lawyers. Among Small Firms, this figure was 45 percent, a lower figure than that reported to the 2016 Index, when 62.8 percent of firms in this category factored pro bono into appraisals. For Medium-sized Firms, this figure rose to

92 percent, an increase from the 68.2 percent reported in the previous Index. Large Firm respondents factored pro bono into the appraisal process for lawyers at a 91 percent.

Lawyers at firms that took pro bono into account when conducting performance appraisals completed 46.7 hours of pro bono on average compared to 20.6 hours at firms that did not. This figure was most pronounced in Small Firms, where the average hours completed by lawyers at firms that factored pro bono into appraisals was highest among the size categories of firms at 92.6 hours, compared to 20.4 for Medium-sized Firms and 37.9 hours for Large Firms.

Factoring pro bono into partners' appraisals may not impact the amount of pro bono they undertake. The data indicates that 46 percent of respondent firms factored pro bono into partner appraisals, with 35 percent of Small Firms taking it into account compared to 59 percent of Medium-sized Firms and 61 percent of Large Firm respondents.

On average, partners for whom pro bono was considered during the appraisal process performed 38.4 hours of pro bono compared to 41.2 where it was not. This could indicate that for partners across all firms, appraisal may not link directly with pro bono levels of engagement. Partners at Small Firms performed 59.4 hours on average when it was not considered in the appraisal process as compared with 42.3 hours when it was.

The submissions indicate that 71 percent of partners performed 10 or more hours of pro bono when it was factored into their appraisals, compared to 64 percent when it was not.

COMPENSATION

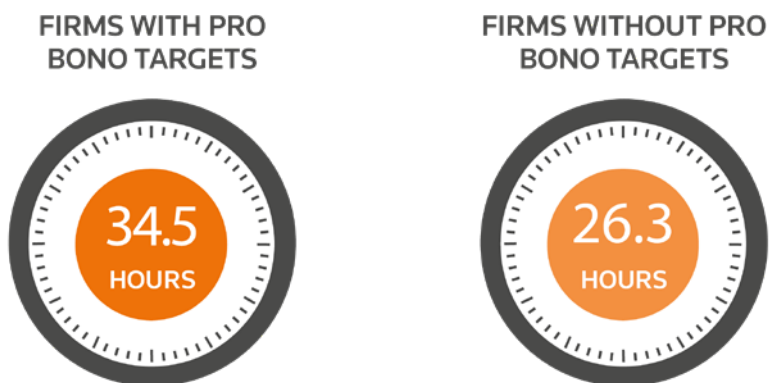
Law firms employ several different mechanisms to calculate compensation – typically a combination of seniority, performance and utilisation (billable hours). Many firms around the world expressly include pro bono matters in this calculation – in some cases all pro bono work is included, in other cases it is only a certain number of pro bono hours.

Respondent firms did not report a close association between compensation incentives and the amount of pro bono performed. The Index found 46 percent of respondent firms overall took pro bono into account when assessing compensation levels for lawyers – a figure which was 25 percent for Small Firms and 70 percent for Large Firms. On average, firms that did not factor pro bono into compensation performed 49.7 hours of pro bono compared to 29.2 hours at law firms that did. At Small Firms, the average pro bono hours were 11.7 hours at firms that did take pro bono into account and 66.3 hours at firms that did not. These findings might indicate that compensation may not be a main incentive in the amount of pro bono hours that some firms perform.

Interestingly, 70 percent of respondent firms indicated that they do not factor pro bono into compensation for partners – with Large Firms (61 percent), Medium-sized Firms (69 percent), and Small Firms (84 percent) not factoring it in at all. This figure was lower than the proportion of firms that factored pro bono work into partner appraisals, echoing the finding of the 2016 Index that compensation processes may be tied to the commercial performance of partners rather than the amount of pro bono performed.

PRO BONO TARGETS

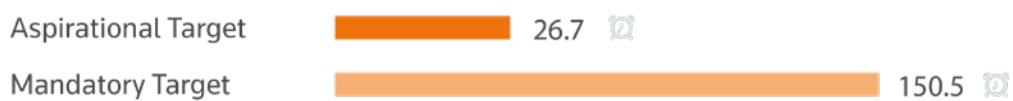
AVERAGE PRO BONO HOURS RECORDED PER LAWYER:



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



TARGETS

The Index found that 60 percent of firms had a fee earning (utilisation) target in place, with a similar number reporting that they have a pro bono target in place. Overall, respondent firms with a pro bono target reported higher hours across the globe.

Some firms have instituted pro bono targets, both mandatory or aspirational, which respectively require or encourage lawyers in their employ to perform a minimum number of pro bono hours. For 60 percent of all respondent firms pro bono hours were also built into fee earning (utilisation) targets, ensuring that lawyers were rewarded, or at the very least not penalised, for taking on pro bono work. The Index found that 50 percent of firms treated pro bono hours the same as fee earning hours for the purposes of targets, while 22 percent credited pro bono hours up to a maximum threshold. Across the entire data set, 14 percent of firms did not take pro bono hours into account at all for fee earning (utilisation) targets.

At firms with a target, 74 percent of lawyers performed 10 or more hours of pro bono, compared to 57 percent at firms without. Small Firms with a pro bono target performed 93.4 hours, compared to 25.5 hours for those without. However, for Medium-sized Firms and Large Firms, respondent firms with a target reported similar hours to those without. The data indicates that targets may be useful, particularly in some Small Firms, to drive pro bono engagement.

For those with a pro bono target, 79 percent of respondent firms stated that their target was aspirational rather than mandatory and that therefore there was no penalty or recourse if the target was not met. Interestingly, 23 percent of Medium-sized Firms state that their targets were mandatory, far more than their counterpart Small Firms (5 percent) and Large Firms (0 percent).

At firms with a mandatory target, lawyers performed an average of 60.4 hours of pro bono, compared to 32.9 hours at firms where the target was aspirational. This figure was 150.5 hours for Small Firms when the target was mandatory,¹ compared to 44.8 hours at Large Firms and 22.8 hours at Medium-sized Firms.

¹ This high figure is as a result of a single Small Firm with a target of 500 hours per year for each of its lawyers. If this firm were excluded from the data, the figure would drop significantly.