

**WESTERN AUSTRALIAN
PRO BONO SERVICES MODEL
REPORT ON PRO BONO FOR
FINANCIAL YEAR ENDING 30 JUNE 2022**

1. Introduction

Western Australia has an active pro bono environment. The Western Australian legal profession engages in pro bono activities through a diverse range of mechanisms, including but not limited to direct partnerships with community legal bodies and referrals from Law Access.

Reports using disaggregated data, collected from law firm reporting, will be published annually by the State Solicitor's Office, and tabled in Parliament. This report ("**2021-2022 Report**") is the second of its kind required under the WA Pro Bono Model and covers the financial year 1 July 2021 to 30 June 2022 ("**Reporting Period**").

It covers the types of pro bono services provided by private law firms during the 2021-2022 financial year that fall within the requirements of the Western Australian Pro Bono Services Model (the "**WA Pro Bono Model**"). It does not include the extensive range of pro bono legal services provided by private law firms beyond or outside the scope of the WA Pro Bono Model.

This report:

- i) Gives an overview of the WA Pro Bono Model.
- ii) Summarises the types of pro bono legal services provided by law firms during the 2021-2022 financial period.
- iii) Gives case studies of pro bono legal services provided under the WA Pro Bono Model.
- iv) Compares trends in the reported data in the 2020-2021 and 2021-2022 financial periods.

The data confirms that the Western Australian legal profession is committed to its professional obligations and continues to give legal assistance to persons who would not otherwise be able to access legal assistance.

All twenty reporting law firms are signatories to the Australian Pro Bono Centre's National Pro Bono Target. The Target is aspirational and signatories to the Target agree to use their best efforts to provide at least 35 hours of "pro bono legal services" per lawyer per year

The twenty reporting law firms reported providing:

- i) A total of \$39,153,557.93 worth of legal services to Government departments and agencies during the Reporting Period. This represented a 54.12 per cent increase in the \$25,405,039.38 total value of legal services to Government departments and agencies reported in the 2020-2021 reporting period.
- ii) A total of \$7,596,052.75 of pro bono work for approved causes in Western Australia. This represents a 57.94 per cent increase in the \$4,809,473.11 of pro bono work for approved causes in Western Australia reported in the 2020-2021 reporting period.
- iii) A total of \$3,796,360.40 of pro bono work for individual approved causes in Western Australia. This represents a 43.84 per cent increase in the \$2,639,358.76

of pro bono work for individual approved causes in Western Australia reported in the 2020-2021 reporting period.

- iv) A total of \$3,909,619.35 of pro bono work for organisation approved causes in Western Australia. This represents an 80.16 per cent increase in the \$2,170,114.35 of pro bono work for organisation approved causes in Western Australia reported in the 2020-2021 reporting period.
- v) A total of 19,373.88 hours of pro bono work for approved causes in Western Australia. This represents a 49.07 per cent increase in the 12996.75 hours of pro bono work for approved causes in Western Australia reported in the 2020-2021 reporting period.
- vi) A total of 9,457.28 hours of pro bono work for individual approved causes in Western Australia. This represents a 32.60 per cent increase in the 7,132.4 hours of pro bono work for individual approved causes in Western Australia reported in the 2020-2021 reporting period.
- vii) A total of 9,914.4 hours of pro bono work for organisation approved causes in Western Australia. This represents a 69.06 per cent increase in the 5864.35 hours of pro bono work for organisation approved causes in Western Australia reported in the 2020-2021 reporting period

Fifteen of the reporting law firms reported undertaking pro bono work for "approved causes" in Western Australia to the value of at least 10 per cent of the value of each law firm's provision of legal services to Government departments and agencies.

The total hours of pro bono legal services provided for approved causes as well as Australian Pro Bono Centre's National Pro Bono Target increased by 192.58 per cent from 88,665.15 in 2020-2021, to 259,416.73 in 2021-2022.

The average hours of pro bono legal assistance provided for approved causes per full time equivalent lawyer in Western Australia increased by 108.86 per cent from 8.67 hours per full time equivalent lawyer reported in 2020-2021 to 18.10 hours per full time equivalent lawyer reported in 2021-2022.

2. Overview of the Western Australian Pro Bono Services Model

2.1. Introduction

The WA Pro Bono Model seeks to build strong pro bono practices with law firms who provide legal services to Government. The pro bono requirements under the WA Pro Bono Model took effect on 1 July 2020, during the COVID-19 Pandemic. On 24 November 2021, the Attorney General tabled in Parliament the first report under the WA Pro Bono Model that covered the financial year 1 July 2020 to 30 June 2021 ("**2020-2021 Report**").

Under the WA Pro Bono Model, law firms who provide legal services to Government are required to be a signatory to the Australian Pro Bono Centre's National Pro Bono Target and to commit to undertake pro bono work for "approved causes" in Western Australia, to the value of at least 10 per cent of the value of each firm's Government legal work. The WA Pro Bono Model does not apply to barristers.

In August 2022, the Attorney-General amended the WA Pro Bono Services Model and the Western Australian Pro Bono Legal Services Model Guidelines ("**WA Pro Bono Guidelines**"). These amendments ensured that law firms are now only required to provide one report per financial year to the State Solicitor's Office even when the law firm has multiple contracts for legal services with many government departments and agencies. The reports require the provision of information which includes:

1. All government departments and agencies with whom that law firm has contracts for Legal Services during the financial year.
2. The total dollar value for all contracts for Legal Services with government departments and agencies during the financial year.

This report focuses on fees earned for legal services on the contracts issued and completed in the Reporting Period. As such, this report does not include fees acquired by firms for work that was not completed by the end of the Reporting Period.

A three year transition period is a feature of the WA Pro Bono Model to enable assessment of the effectiveness of its objectives and reporting requirements, as well as the identification of key matters to enhance access to legal services.

2.2. Approved causes

The WA Pro Bono Model specifically includes "approved causes" to ensure that legal assistance and advice is more accessible to the most disadvantaged and marginalised people, and not-for-profit organisations in Western Australia. Approved causes are defined to mean the provision of pro bono legal services:

- a) to people in Western Australia who cannot obtain Legal Aid or otherwise access the legal system without incurring significant financial or other hardship;
- b) which will enhance access to justice for disadvantaged people in Western Australia;
- c) to Law Access, a community legal centre, the Aboriginal Legal Services of Western Australia, and to bodies whose primary focus is representation of Aboriginal people; or

- d) by way of secondment of legal staff to Law Access, a community legal centre, the Aboriginal Legal Services of Western Australia, or bodies whose primary focus is representation of Aboriginal people.

2.3. Disadvantaged people

The WA Pro Bono Model does not define "disadvantaged people". This is due both to the complexities and limitations of a fixed definition. There are myriad definitions about what constitutes "disadvantage". Research entities use terms such as "vulnerable", "marginalised" and "social exclusion" to assess the individuals, communities and groups whose access to services is limited.

The decision to leave "disadvantage" loosely defined was made to enable law firms, with the assistance of Law Access, to enhance access to justice, without being constrained by changing and emerging circumstances.

The National Legal Assistance Partnership has been entered between the Australian Federal Government and all of the State and Territory Governments including Western Australia for the objective of contributing to integrated, efficient, effective and appropriate legal assistance services which are focussed on improving outcomes and keeping the justice system within reach for vulnerable people facing disadvantage, within available resources.¹

The 2022 WA Legal Needs Report, published by the Department of Justice,² identifies Priority Client Groups as populations that were identified either in the National Legal Assistance Partnership, or through consultation with the legal assistance sector, in recognition that some groups of people experiencing vulnerability and disadvantage are more likely to face legal problems and less able to access legal assistance.³

The 2022 WA Legal Needs Report provides that as part of its Legal Assistance Strategy, the Department of Justice has identified vulnerable cohorts that are more likely to encounter legal problems and are less likely to access legal assistance given their disadvantages. The cohorts identified include Aboriginal and Torres Strait Islander peoples, children and young people, older people, people experiencing, or at risk of, family violence, people experiencing, or at risk of, homelessness, people in custody and/or prisoners, people residing in rural and remote areas, people who are culturally and linguistically diverse, people with a disability or mental illness, people with low education levels, single parents, people residing in regional areas, people who identify as LGBTQI+, women, victims of institutional abuse, and involuntary patients under the *Mental Health Act 2014* (WA).⁴ These findings will continue to inform the WA Pro Bono Model.

¹ Australian Government Attorney-General's Department, *National Legal Assistance Partnership* (Agreement, 30 June 2020) 3

² Western Australian Government Department of Justice, *Assessment on the Current Legal Needs in Western Australia* (Final Report, November 2022).

³ Western Australian Government Department of Justice, *Assessment on the Current Legal Needs in Western Australia* (Final Report, November 2022) 12.

⁴ Western Australian Government Department of Justice, *Assessment on the Current Legal Needs in Western Australia* (Final Report, November 2022) 22.

2.4. Reporting requirements

Under the WA Pro Bono Model, law firms who provide legal services to Government are required to report within 12 weeks of the completion of the financial year, among other things:

1. Confirmation that the firm is a signatory to the National Pro Bono Target.
2. The total amount of legal fees charged by the firm to the Government during the completed financial year.
3. The total amount of pro bono legal services provided by the firm for "approved causes" during the completed financial year broken down into the total dollar amount of work provided for individual pro bono clients and for organisation clients.

The WA Pro Bono Guidelines contain a table ("**Pro Bono Reporting Template**") that law firms who provide legal services to Government must complete and provide to the State Solicitor's Office in order to comply with these reporting requirements under the WA Pro Bono Model. The Pro Bono Reporting Template requires those law firms to provide more specific information and data than the general reporting requirements under the WA Pro Bono Model, and includes 15 line items to be filled out by the law firms.

Law firms are not required to disclose the names of their pro bono clients in the reporting.

2.5. Bodies within the WA Pro Bono Model

The WA Pro Bono Model has specific partnerships with Law Access and Community Legal Centres to facilitate access to pro bono legal services provided under the WA Pro Bono Model through partnerships and a referral service.

Law Access

To enable law firms to more easily provide services to disadvantaged people, Law Access is funded by the Department of Justice. Law Access is a gateway or referral service that matches applications for pro bono legal assistance from individuals and not for profit organisations to lawyers. The service is available for cases with legal merit where all other efforts to obtain free legal assistance, including from Legal Aid WA, the Aboriginal Legal Service of WA and Community Legal Centres, have been exhausted.

Law Access publishes an annual Impact Report which measures Law Access's impact to enhance access to justice for its clients and the sustainability of its services. Law Access receives applications for pro bono assistance from individuals, not for profit organisations and Community Legal Centres.

Community Legal Centres

Western Australia's twenty-six Community Legal Centres and the Aboriginal Legal Service utilise the WA Pro Bono Model to help deliver essential legal services to vulnerable Western Australians.

Most, if not all Community Legal Centres have long standing arrangements with private law firms to assist their operations on a regular basis, such as sending lawyers to attend evening legal information sessions at their centres and provide legal advice to local community

members. Some of these arrangements are coordinated by Law Access while others are the result of relationships built over time, between the centres and law firms.

The types of pro bono legal services provided by law firms to Community Legal Centres include representation, trial work, and other services to fill gaps in expertise. Some private lawyers are seconded by their law firms to work in a Community Legal Centre for a defined number of hours each week. Private law firms also provide Community Legal Centres administrative support, including by providing the Community Legal Centres the use of the law firm's resources. Training is provided to private lawyers in delivering services in a trauma setting as well as the use of interpreters for culturally and linguistically diverse clients.

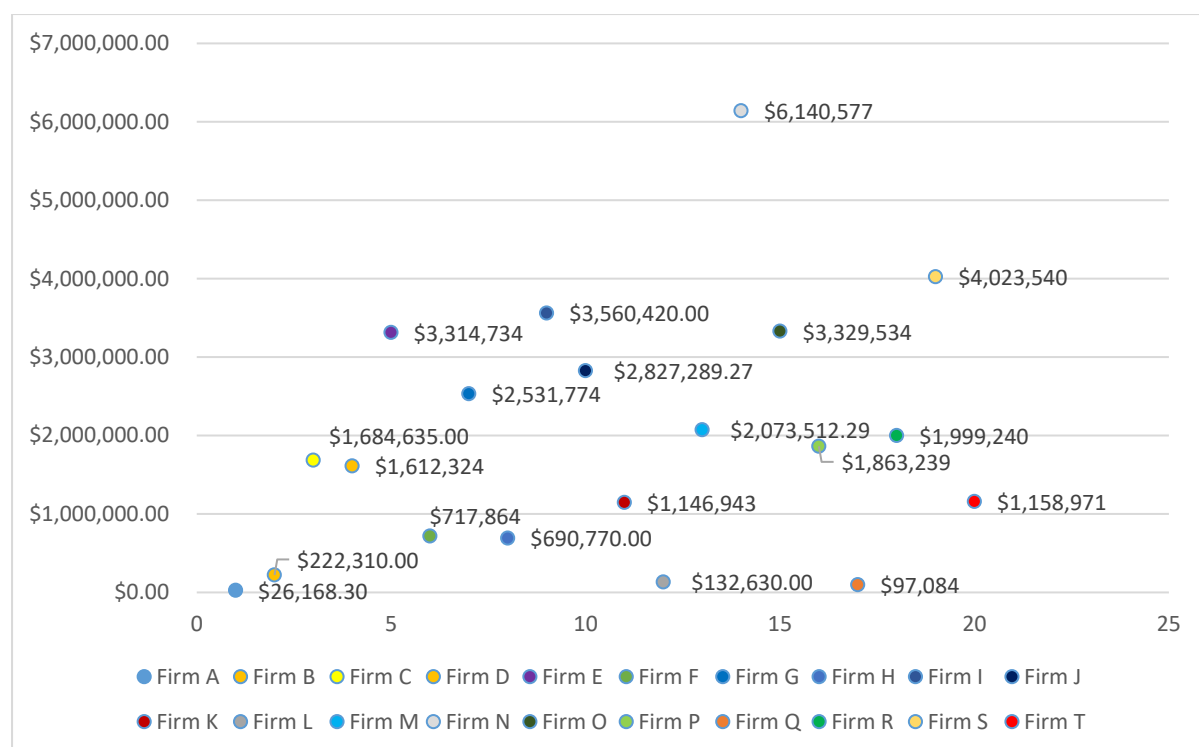
3. Provision of Pro Bono Legal Services

Twenty law firms submitted reports to the State Solicitor's Office consistent with the Pro Bono Reporting Template in the WA Pro Bono Model Guidelines.

The twenty law firms provided legal services during the Reporting Period for over 50 different Government Departments and agencies, including Department of Communities, Economic Regulation Authority, Electricity Networks Corporation (trading as Western Power), Insurance Commission of WA, various port authorities, Racing and Wagering WA, various Universities, WA Health and the Water Corporation.

The total value of legal services provided to these agencies during the Reporting Period for each law firm ranged from \$26,168.30 to \$6,140,577, with a total value of \$39,153,557.93.

Total dollar value of the contact for legal services for the financial year



3.1. Signatory to the National Pro Bono Target requirement

All twenty law firms are a signatory to the Australian Pro Bono Centre's National Pro Bono Target.

3.2. Provision of pro bono legal services to approved causes requirement

Fifteen law firms stated that they provided pro bono services for "approved causes" to the value of at least 10 per cent of the value of each firm's Government legal work.

This represents an increase in the law firms complying with the commitment to provide pro bono work for "approved causes" in Western Australia to the value of at least 10 per cent of the value of each firm's Government legal work as was reported in the 2020-2021 Report, which was thirteen.

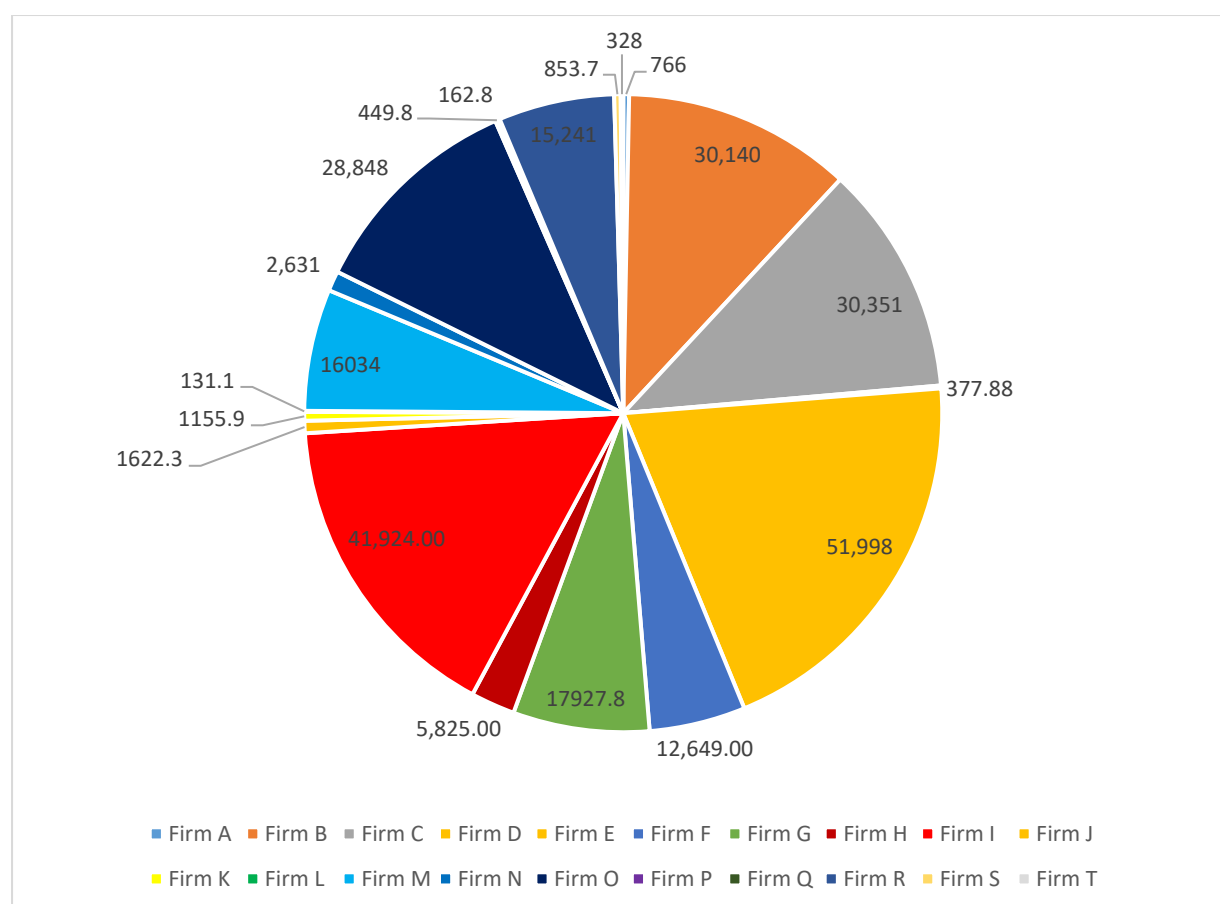
3.3. Amount of pro bono legal services provided to approved causes

The reported amount of pro bono work for approved causes in WA undertaken by each law firm ranged:

- a) from 73.8 hours, valued at \$22,945.90, for contracts for legal services to Government for the Reporting Period with a total value of \$97,084;
- b) to 3,199 hours, valued at \$1,196,526.87, for contracts for legal services to Government for the Reporting Period with a total value of \$3,314,734.

The total hours of pro bono work for approved causes in WA undertaken by all reporting law firms was 19,373.88 hours. This is equivalent to 10 lawyers working full time exclusively on pro bono work for approved causes for the Reporting Period.⁵

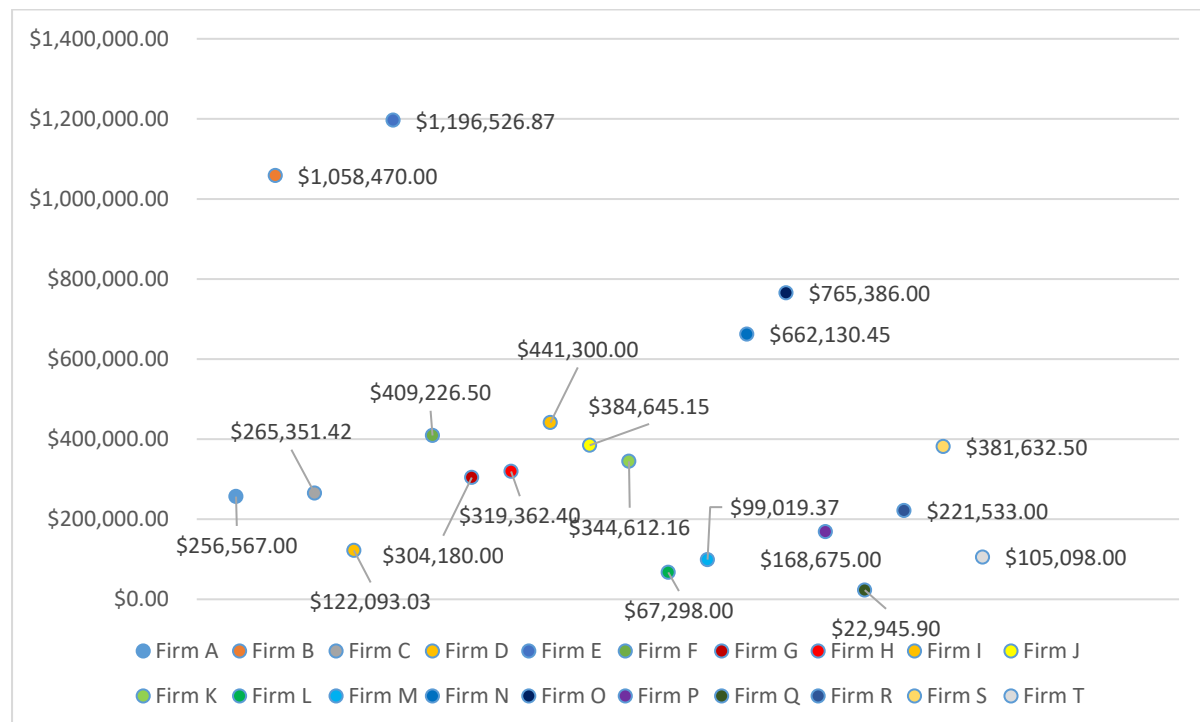
Total hours provided on pro bono legal services for approved causes for the financial year



⁵ Calculated on the basis of a 37.5 hour working week over 48 weeks.

The total value of pro bono work for approved causes in WA undertaken by all law firms was valued at around \$7,596,052.75. This is equivalent to 19.4 per cent of the total value of work performed for Government Departments and agencies in the Reporting Period.⁶

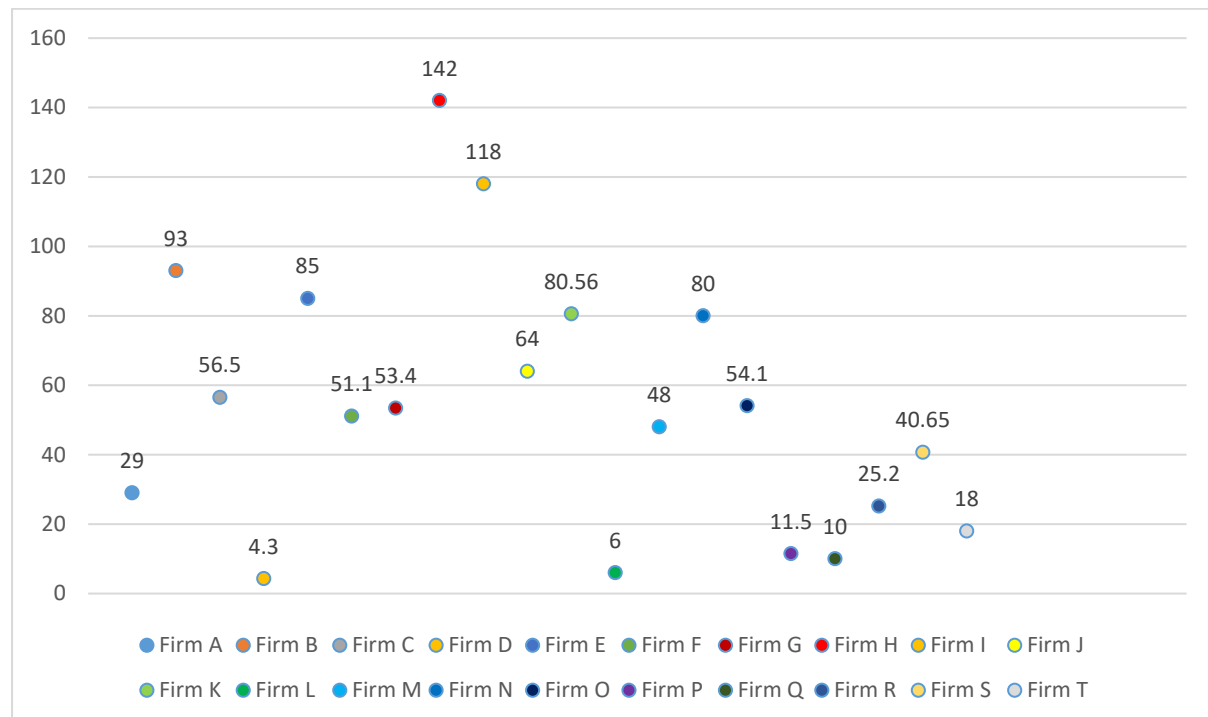
Total dollar amount on Pro Bono Legal Services on approved causes for the financial year



⁶ Calculated as $\$7,596,052.75 / \$39,153,558.93 \times 100$.

The total number of full time equivalent lawyers at these twenty law firms was reported as 1070.31 lawyers.⁷ Based on the total hours of pro bono work for approved causes and the total number of full time lawyers, the average hours of pro bono work for approved causes for each full time equivalent lawyer is approximately 18.10 hours. This represents a 108.86 per cent increase from the 8.66 average hours of pro bono work for approved causes for each full time equivalent lawyer reported in 2020-2021.

Total number of full time equivalent lawyers (excluding paralegals) for the financial year



3.4. Nature of pro bono work for approved causes

Twelve law firms provided more pro bono work for approved causes for individuals than for approved causes for organisations.

The areas of law in which pro bono work was undertaken included bankruptcy, care and protection, citizenship, civil litigation, credit and debt, criminal injuries compensation, criminal proceedings, discrimination, domestic and family violence, leasing, National Disability Insurance Scheme ("NDIS"), and wills and estate planning.

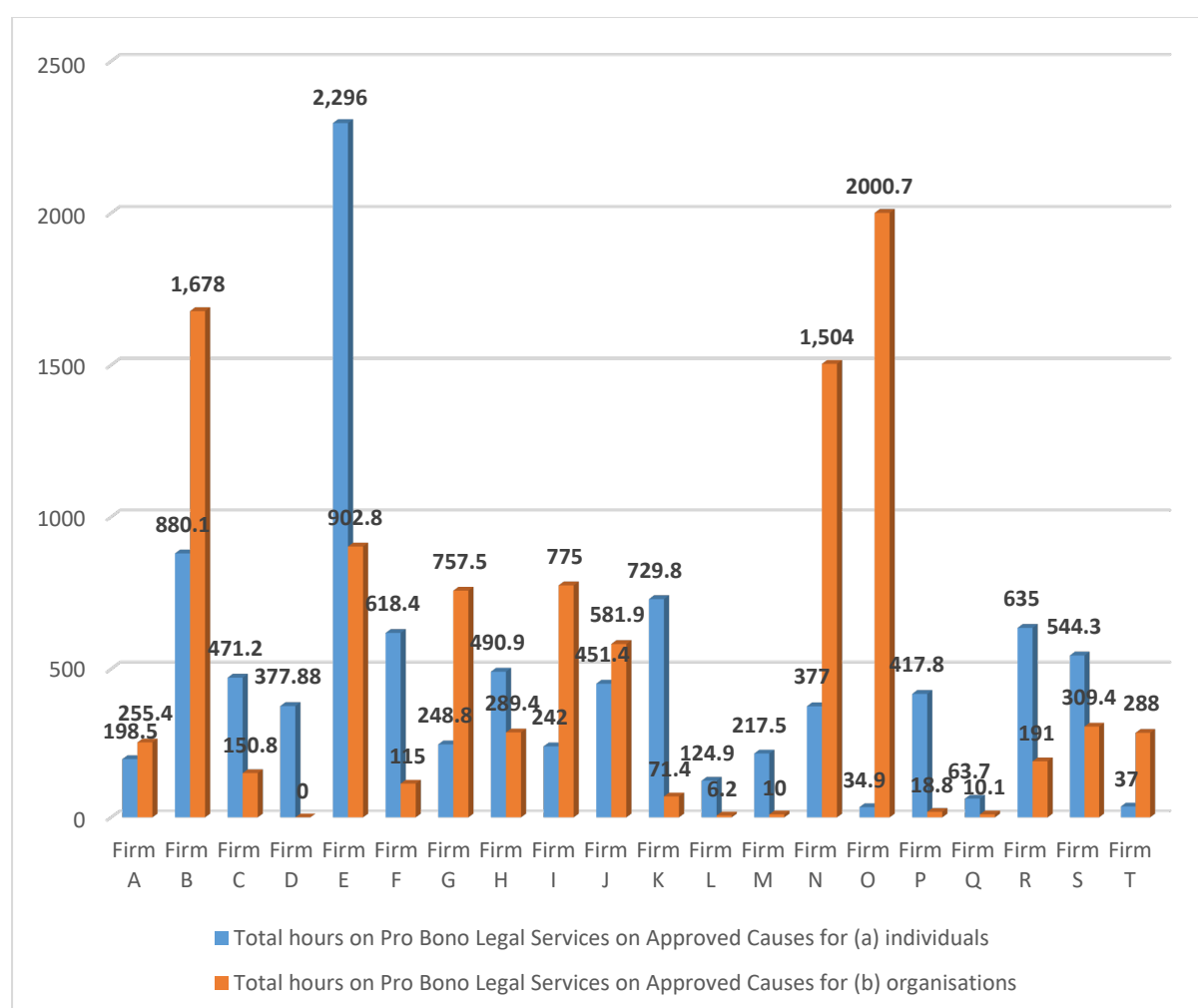
The types of pro bono work undertaken included advice, capacity building, clinics, community legal education, court attendances, document preparation, law reform, legal research, litigation settlement, mediation services, and pro bono secondments.

⁷ Noting comments made early in section 2.1. of the 2021-2022 Report.

The disadvantaged people assisted by law firms by the undertaking of pro bono work for approved causes included Aboriginal people, domestic violence survivors, elderly people, people with disability and illness such as cancer, people with limited English Language skills, people with mental illness, and people without homes.

The bodies assisted by law firms by the undertaking of pro bono work for approved cases included Law Access, the Aboriginal Legal Service and Community Legal Centres including Circle Green Community Legal, Citizens Advice Bureau, Consumer Credit Legal Service, Mental Health Law Centre WA, Street Law, Subiaco Justice Centre and Sussex Street Community Law Services.

Total hours of pro bono legal services provided for approved causes for individuals and organisations for the financial year

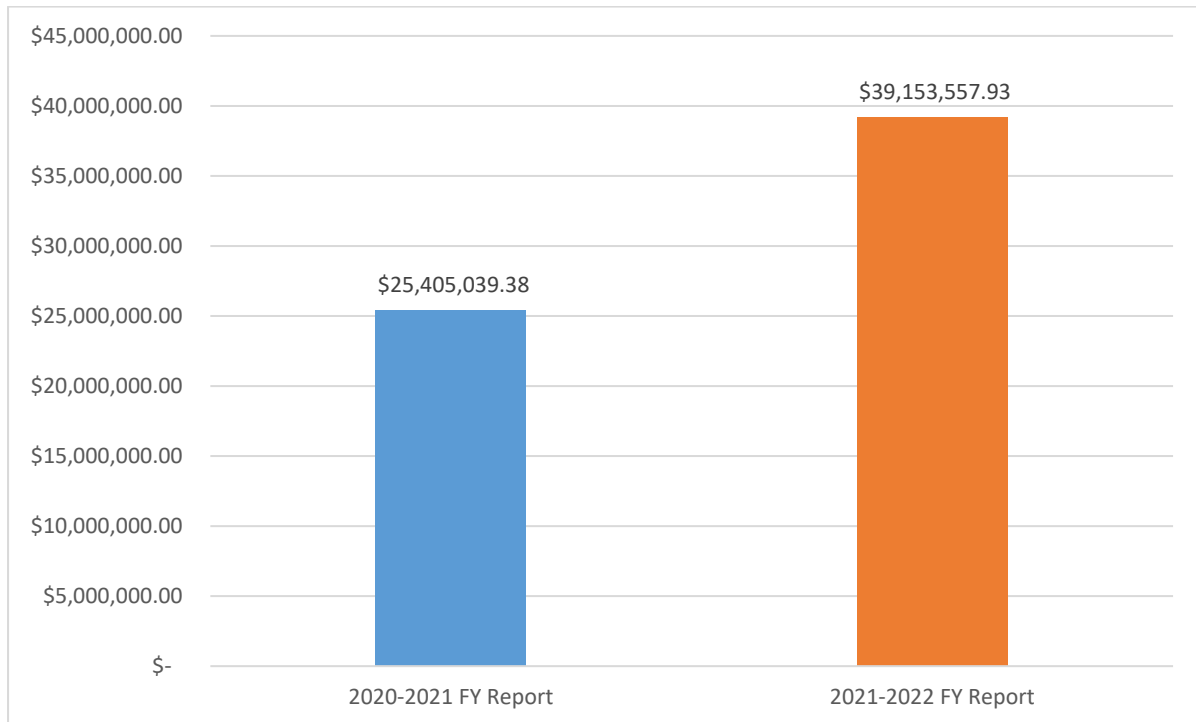


Nine of the law firms provided pro bono assistance for approved causes by way of secondments to Law Access and various Community Legal Centres.

3.5. Comparisons of reported data with previous years reported data

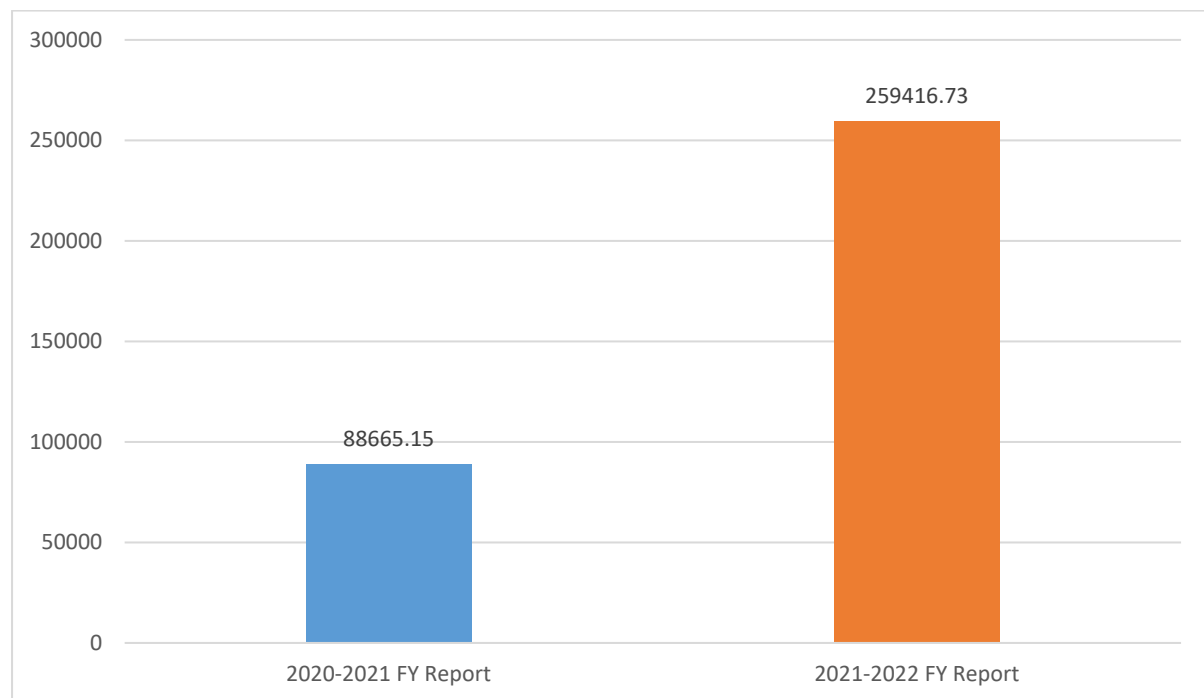
The total value of legal services provided to Government Departments and agencies increased by 54.12 per cent from \$25,405,039.38 reported in 2020-2021, to \$39,153,557.93 reported in 2021-2022.

Total dollar value of the contract for legal services for the financial year



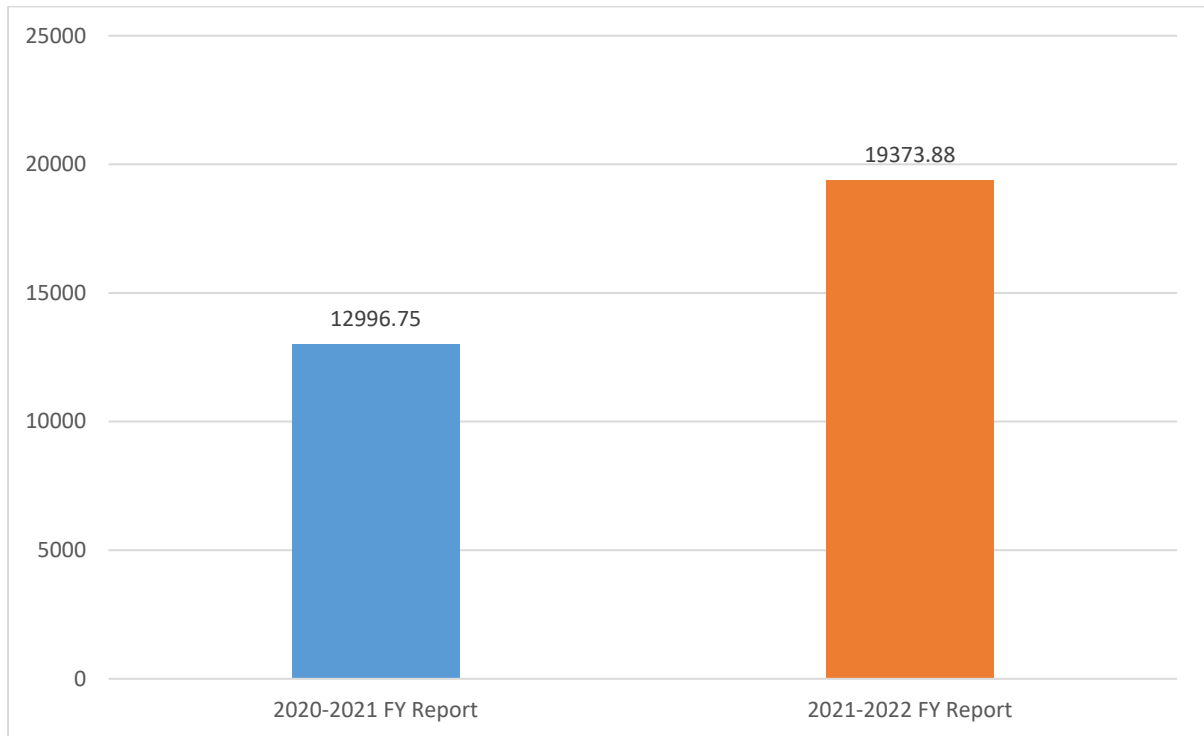
The total hours of pro bono legal services provided for approved causes and under the Australian Pro Bono Centre's National Pro Bono Target increased by 192.58 per cent from 88,665.15 reported in 2020-2021, to 259,416.73 reported in 2021-202.

Total hours of pro bono legal services (on approved causes AND under the Australian Pro Bono Centre's National Pro Bono Target)



The total hours of pro bono legal services provided for approved causes increased by 49.07 per cent from 12,996.75 reported in 2020-2021, to 19,373.88 reported in 2021-2022.

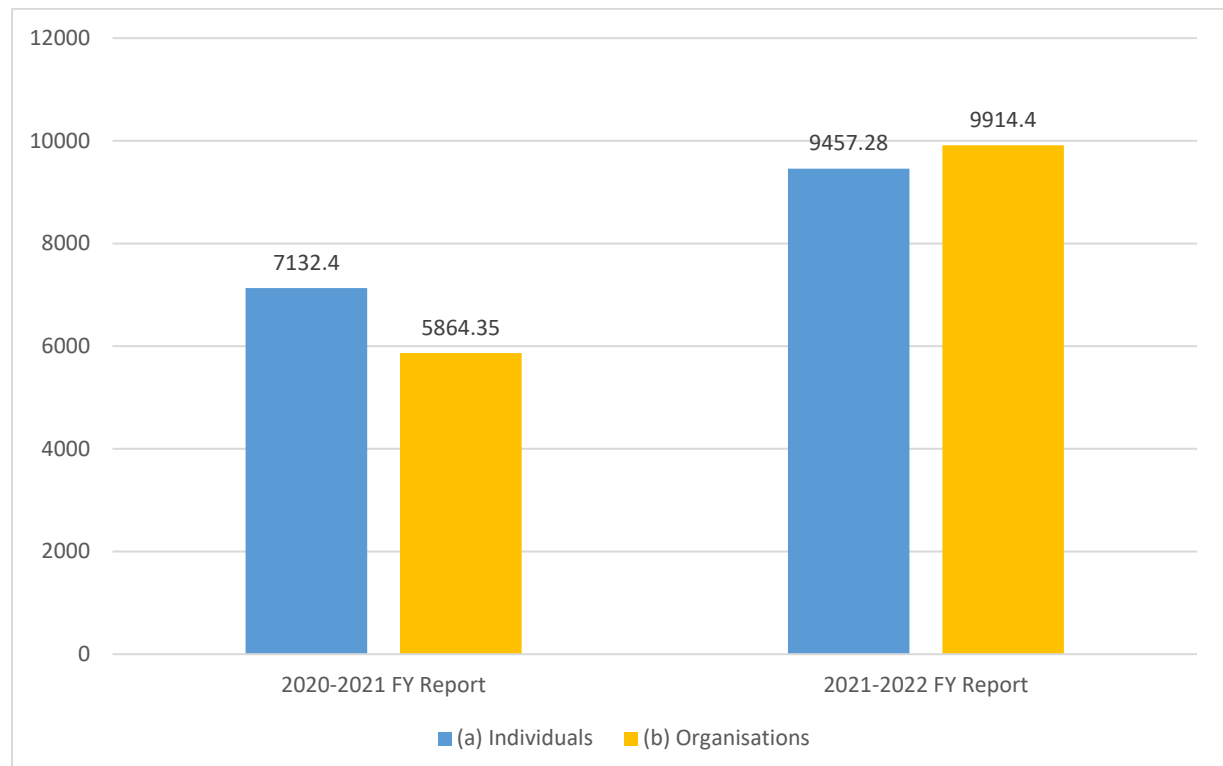
Total hours of pro bono legal services provided for approved causes



The total hours of pro bono legal services provided for approved causes for individuals increased by 32.60 per cent from 7,132.4 reported in 2020-2021, to 9,457.28 reported in 2021-2022.

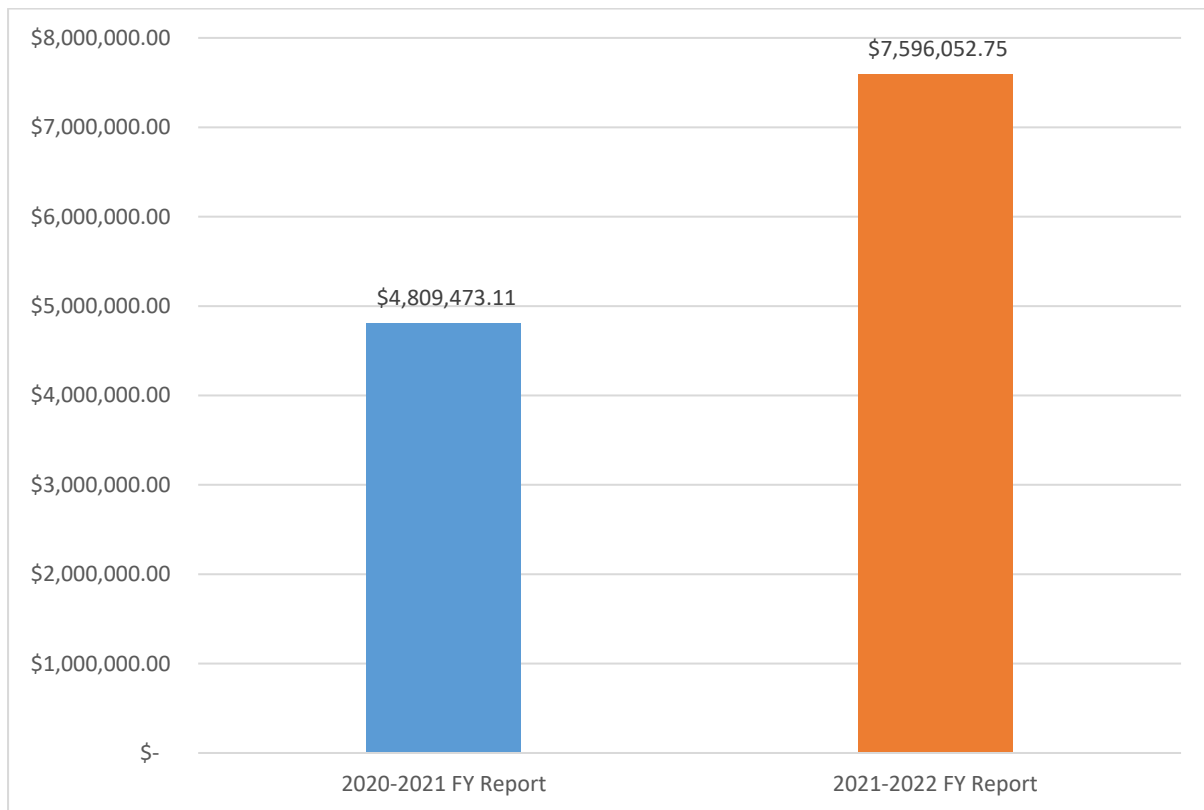
The total hours pro bono legal services provided for approved causes for organisations increased by 69.06 per cent from 5,864.35 reported in 2020-2021, to 9,914.40 reported in 2021-2022.

Total hours of pro bono legal services provided for approved causes for individuals and corporations



The total dollar amount of pro bono legal services provided for approved causes increased by 57.94 per cent from \$4,809,473.11 reported in 2020-2021, to \$7,596,052.75 reported in 2021-2022.

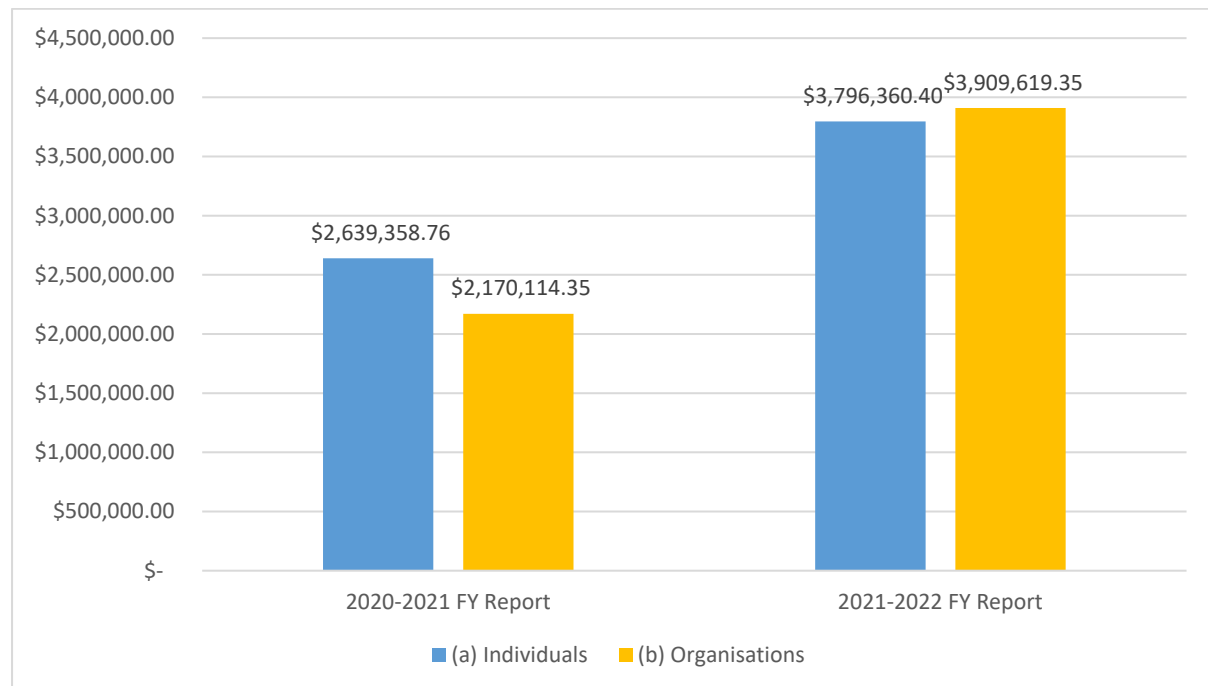
Total dollar amount of pro bono legal services for approved causes



The total dollar amount pro bono legal services provided for approved causes for individuals increased by 43.84 per cent from \$2,639,358.76 reported in 2020-2021, to \$3,796,360.40 reported in 2021-2022.

The total hours pro bono legal services provided for approved causes for organisations increased by 80.16 per cent from \$2,170,114.35 reported in 2020-2021, to \$3,909,619.35 reported in 2021-2022.

Total dollar amount of pro bono legal services for approved causes for individuals and corporations



4. Case studies

The following case studies have been prepared to provide a sense of the types of pro bono legal services undertaken by law firms for approved causes.

In late 2021, Lavan commenced a NDIS project, which provides free legal assistance and advocacy for participants in the NDIS participants to ensure that they have appropriate NDIS funding for supports that provide an improved quality to their life. Most of the pro bono legal assistance was provided in matters where significant cuts were made to participants' funding under their NDIS plans. Those NDIS plans are intended to provide necessary supports and services to the participant. During the Reporting Period, Lavan was able to assist around 10 people with their National Disability Insurance Agency review applications and Administrative Appeal Tribunal appeals, which led to additional funding of over \$1 million of NDIS support for those clients.

Jackson McDonald partnered with Law Access and Aboriginal Family Legal Services as part of a collaborative access to justice project with Broome Circle, a locally based community organisation, to deliver a free wills clinic to remote Aboriginal communities in the West Kimberley. Two Jackson McDonald partners delivered pro bono legal services to a number of Aboriginal and Torres Strait Islander People in Djarindjin and Beagle Bay between 8 and 12 November 2021. They met with clients, took instructions and helped with drafting and signing wills. The project was a great success, and collectively serviced over 50 clients.

Lawton Gillon provided pro bono legal assistance for a client referred from Law Access who had entered into a series of animal fostering agreements in relation to her pet dogs after being displaced from her home due to damage from Cyclone Seroja. She had also entered into an animal breeding agreement. A dispute then arose between the parties and the person providing the animal foster care refused to return the dogs to the client. The pro bono legal services provided included drafting a letter of demand and negotiating with the other party's lawyer towards a settlement arrangement. When negotiations did not progress, the law firm provided pro bono assistance in preparing and filing court proceedings in the Perth Magistrates Court, preparing a detailed statement of claim and attending a Pre-Trial Conference and mediating a favourable settlement for the client.

Civic Legal provided pro bono legal assistance in taking over, rectifying and continuing the prosecution of a complex claim in the Industrial Magistrates Court for an unemployed former chef who had been underpaid by their employer for over 10 years.

4.1. Afghanistan Humanitarian Crisis

Following the Taliban taking control of Kabul in August 2021, Australia stepped in to offer refuge to Afghans fleeing Afghanistan, with the Australian Government appointing specialist immigration services to advise and assist those evacuated from Afghanistan on temporary Humanitarian Stay subclass 449 visas to obtain permanent residency, the majority of which were applying for a humanitarian visa. The conflict in Afghanistan culminating in the Taliban retaking control in August 2021 brought about a significant displacement and humanitarian crisis.

As a result the Community Legal Centre which provides specialist migration legal assistance, Circle Green Community Legal (Circle Green), experienced a massive spike in demand from disadvantaged Western Australians who wanted to assist family members to apply for Australian visas in order to escape the crisis unfolding in Afghanistan.

Norton Rose Fulbright provided pro bono assistance during this crisis through seconding a lawyer into the Humanitarian stream of Circle Green Community Legal Centre in Perth. The lawyer provided pro bono assistance at Circle Green's Afghan Family Reunion Clinics and provided legal services directly assisting Afghan clients fleeing persecution.

The Department of Justice also provided an eight-week emergency grant to Circle Green of approximately \$45,000 to assist Circle Green to respond to the increased demand.

5. Comparison of Pro Bono Legal Services undertaken in other jurisdictions

Most Australian jurisdictions have arrangements for the provision of pro bono legal services by law firms. Details and comparative information is collated and updated by the Australian Pro Bono Centre and is available at www.probonocentre.org.au

Comparable information for pro bono legal services provided in New South Wales and for the Commonwealth is summarised below. This data relates to the 2020-2021 Financial Year, as at the time of publishing this report data is unavailable for the 2021-2022 Financial Year from these or other jurisdictions.

The Legal Services Expenditure Report is produced by the Office of Legal Services Coordination in the Commonwealth Attorney-General's Department (AGD). The report presents an overview of the Commonwealth's expenditure on legal services in the 2020-2021 financial year. It was published in September 2022. The Whole of Australian Government Legal Services (WoAG) Panel is the primary method through which the Commonwealth engages external non-government legal services providers

Law firms appointed to the WoAG Panel are required to sign up to the National Pro Bono Target and use their best endeavours to meet or exceed the Target. Law firms are required to report their total hours of pro bono work and average number of pro bono hours per lawyer for the previous financial year to the Office of Legal Services Coordination annually. In 2020-21, the 62 legal services providers appointed to the WoAG Panel reported they had performed a total of 512,878.56 hours of pro bono work. Thirty-five law firms reported over 1,000 total hours. The average hours per lawyer was 30.58, and the average hours per legal services provider was 8,272.23. Two firms did not report any pro bono hours. Thirty-six legal services providers increased their pro bono hours per lawyer from the 2019-20 financial year. Thirty-four law firms did not meet the target.⁸

The NSW Government Legal Services Panel Deed commenced in July 2016 and findings from the 2020-2021 Annual Report, as it concerns the provision of pro bono legal services, are summarised below. Under these arrangements mid-size to large-size law firms (29 law firms) undertake to use their best endeavours to meet the National Pro Bono Target of 35 hours of pro bono work per lawyer per year. During the 2020-2021 financial year, panel firms provided an average of 31.49 hours of pro bono services per lawyer, equating to 482,232 hours of pro bono services. A total of 26 firms indicated that they were a signatory to the National Pro Bono target, and of these 15 firms exceeded the Pro Bono Target.⁹

⁸ Australian Government Attorney-General's Department, *Legal Services Expenditure Report 2020-2021* (Final Report, 8 September 2022) 4, 14.

⁹ New South Wales Government, *NSW Government Legal Services Panel Annual Report 1 July 2020 – 30 June 2021* (Final Report June 2022) 11.

6. Conclusion

Analysis of the data submitted paints a reasonably clear picture of the effectiveness of the WA Pro Bono Model. The value of pro bono legal services provided by the law firms increased in terms of hours. Further, the case studies confirm that Community Legal Centres and law firms are forging new partnerships to enhance access to justice.

As noted in the 2020-21 Report, the WA Pro Bono Model is being evaluated to ascertain the effectiveness of the Model in terms of the equitable access to services. The focus points of the evaluation includes the effectiveness of the model at facilitating pro bono services reaching the most disadvantaged groups, and assessing and addressing any mismatch in demand for pro bono services and expertise of law firms providing pro bono services under the Model. The evaluation report will be finalised by mid-2023 and it is intended that its findings are used to strengthen the WA Pro Bono Model.