

# Performance management

## Legal – South Africa

Targets, charge-out rates, & performance compensation

**GRMINTELLIGENCE**  
A DIVISION OF GRM



## INTRODUCTION

*By: Head of Research & Analytics, Rayne Handley*

Performance management is a vital aspect of running a successful and productive organisation, notwithstanding law firms. The ethos is simple, by increasing the performance of individuals or teams organisations are able to increase its bottom line. Expecting too much or too little of people and you may not end up getting the most out your staff.

What GRMi has seen is that the bulk of performance management focus in law firms is on fee earners, with most firms monitoring performance in terms of financial or billable hour targets. This trend leaves many private practice lawyers feeling exceptionally stressed and unsupported by their firm.

GRM's legal search arm frequently speaks to lawyers looking for opportunities with more reasonable targets. We see numerous lawyers working weekends and overtime in order to meet their targets. Targets can encourage hard work and tenacity but so too can it result in dubious measures to meet unreasonable targets. While performance may be high, having unmotivated staff with a high risk of mental health issues is also not advisable. GRMi has spoken to a number of law firms with targets in place for their fee earners however there is no repercussions, training, or target adjustment for individuals who are unable to meet their targets.

At the end of the day setting targets for legal professionals is a fine balancing act between firm performance and employee wellbeing and actualisation and performance management needs to be implemented and continuous in order to be of value. In a best case scenario performance targets will be multi-faceted and agreed upon by firm and lawyer. Performance will be reviewed monthly and each lawyer or team will have an open reflection and discussion on target achievement or short-fall.



## METHODOLOGY NOTES

This report contains compensation and performance data gathered during the past 12 months during our normal course of business, by our Transaction teams and our dedicated Research and Analytics teams, based in South Africa. GRMi has collected performance management related data from over 1500 private practice lawyers in South Africa.

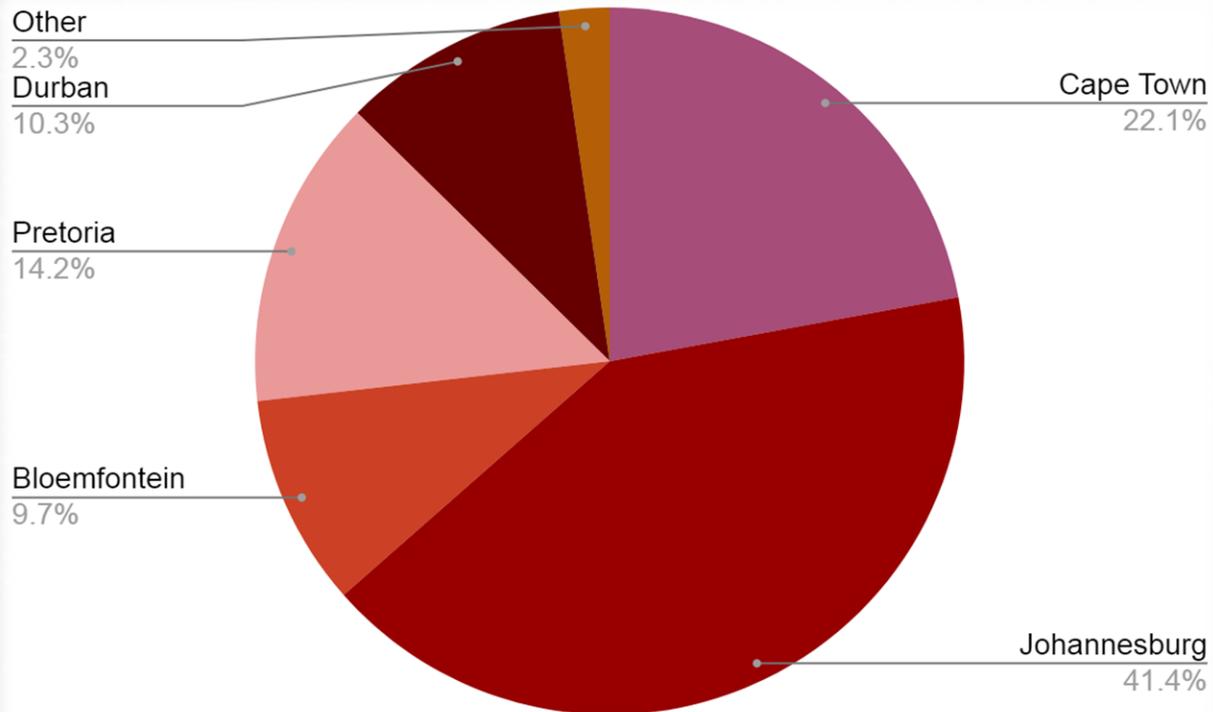
GRM Intelligence attempts wherever possible to gather specific figures as opposed to ranges which further improves the reliability of our research findings.

The research design is primarily quantitative, incorporating primary source data. Every reasonable effort was made to maintain data integrity and provide accurate and useful information.

All gathered information is treated with the strictest confidentiality to ensure that we protect the anonymity of both our candidates and our clients.

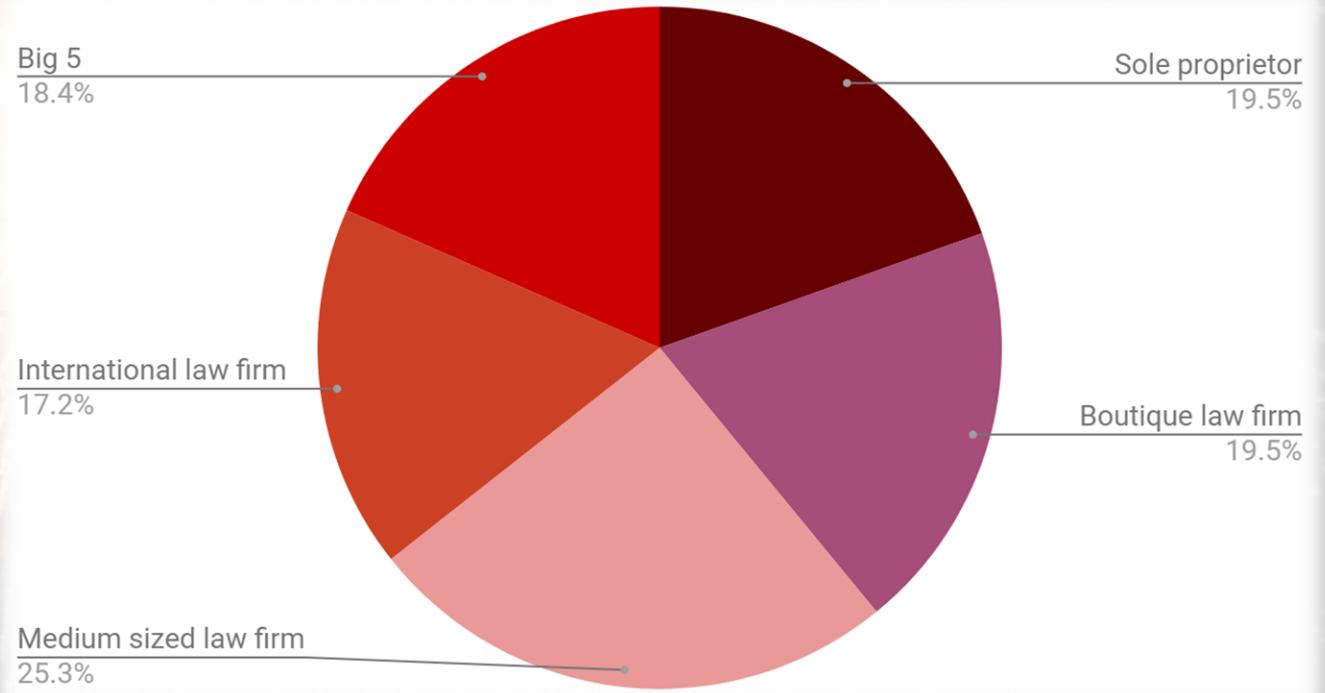
## Sample description

We see a nice distribution of the sample in terms of location in the chart to the right. As can be expected we see the large bulk of respondents in Johannesburg, followed by Cape Town. We also see a reasonable representation from Pretoria with a number of small to medium firms and the constitutional courts.



## Sample description Cont.

Looking at the distribution in terms of firm type, GRM Intelligence was able to generate a relatively evenly distributed sample by ensuring management of data collection and directing additional data collection towards “filling the gaps” so as to ensure all of our clients and readers can benefit from our findings.



|                    | 25th Percentile | Average   | 75th Percentile |
|--------------------|-----------------|-----------|-----------------|
| Equity Partner     | R3,625.00       | R4,216.67 | R7,200.00       |
| Managing Partner   | R3,500.00       | R4,187.50 | R6,700.00       |
| Partner            | R1,200.00       | R2,400.00 | R3,850.00       |
| Senior Associate   | R2,300.00       | R2,477.27 | R2,700.00       |
| Junior Associate   | R1,450.00       | R1,799.13 | R2,100.00       |
| Candidate Attorney | R762.50         | R1,285.71 | R1,725.00       |

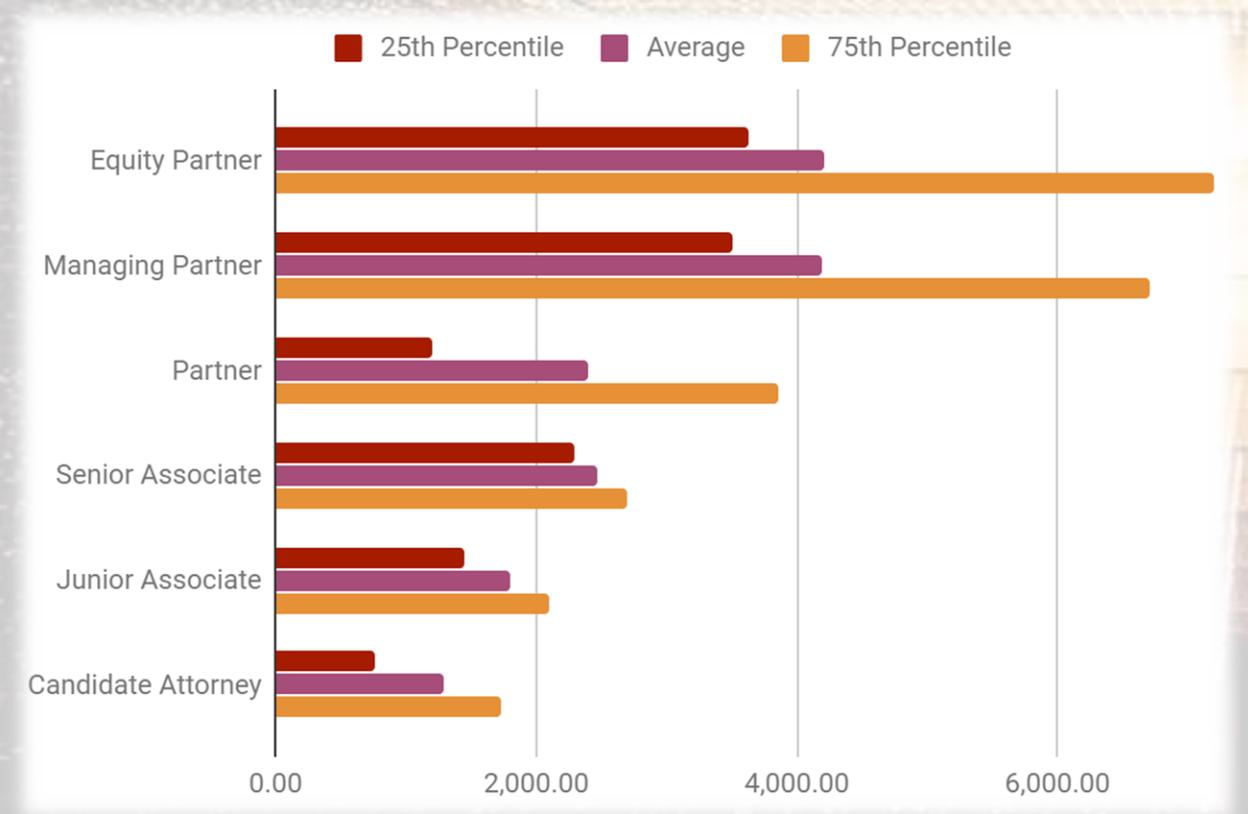
## FINDINGS & DISCUSSION

### HOURLY CHARGE OUT RATE

As can be expected there is a general trend of higher charge-out rates for more experienced legal professionals however major differences exist across the type of firm (e.g. Big 5, international (fully integrated), international (swiss veren), medium, and small firms). For example with charge out rates we see some professionals charging themselves out US\$8-900 p/h, the strategy being to secure big deals with large international clients.

We also see that some firms have charge-out rates above the curve, however their charge out costs are incredibly high due to high overheads (salaries, rental etc). Differences in charge-out rates can also be seen across location, practice areas, and sector specialisations.

There were numerous instances of a lack of billing transparency at the candidate attorney and junior associate level where respondents did not know what their firm was charging their time out at. This was seen predominantly at sole proprietors and small-sized firms.



## AVERAGE HOURS BILLED IN A MONTH

There is a growing trend of moving away from billing clients per hour towards fixed fees (or project-based pricing), capped fees, and retainers. While some practice areas such as estates and conveyancing have already made this transition, others are beginning to follow suit. Not only does there appear to be pressure from the LPC but clients are putting increasing pressure on law firms to reduce their fees.

We have seen a rising number of Alternative legal Services firms popping up in South Africa, predominantly of international origin (e.g. Exigent and Cognia). These ALS providers are also placing increasing pressure on traditional law firms to adopt alternative billing models that better suit clients. Fern banks legal is the first purely ALS provider of South African origin that we have been able to identify. Fern banks aims to collaborate with as opposed to replace law firms. Not only are law firms losing clients to ALS models but they are also losing talent as ALS models are offering more flexibility and often have no targets imposed on staff.

Despite some of these emerging trends, the vast majority of law firms and legal professionals we have spoken to in South Africa still monitor performance, or have their performance monitored on the basis of the billable hour. Further to this we still see the bulk of clients being billed by the hour.

Looking at our findings in the tables below, it is interesting to note that around the 25th percentile we see a plethora of different types of individuals, for instance some lawyers working shorter work weeks, some lawyers with greater managerial or business development targets, and some sole practitioners who have the capacity and time but not the deal flow to bill more, etc.

At the upper end of the scale we see some lawyers billing as much as 250 to 350 hours a month on average. Seems impossible to some and ludicrous to others but upon investigation we see that there are many lawyers and law firms do not bill 7 minutes for a 7 minute phone call and the rounding up of time allows them to “rack-up” more hours than they have actually worked in order to make up for hours of work that cannot be billed for.

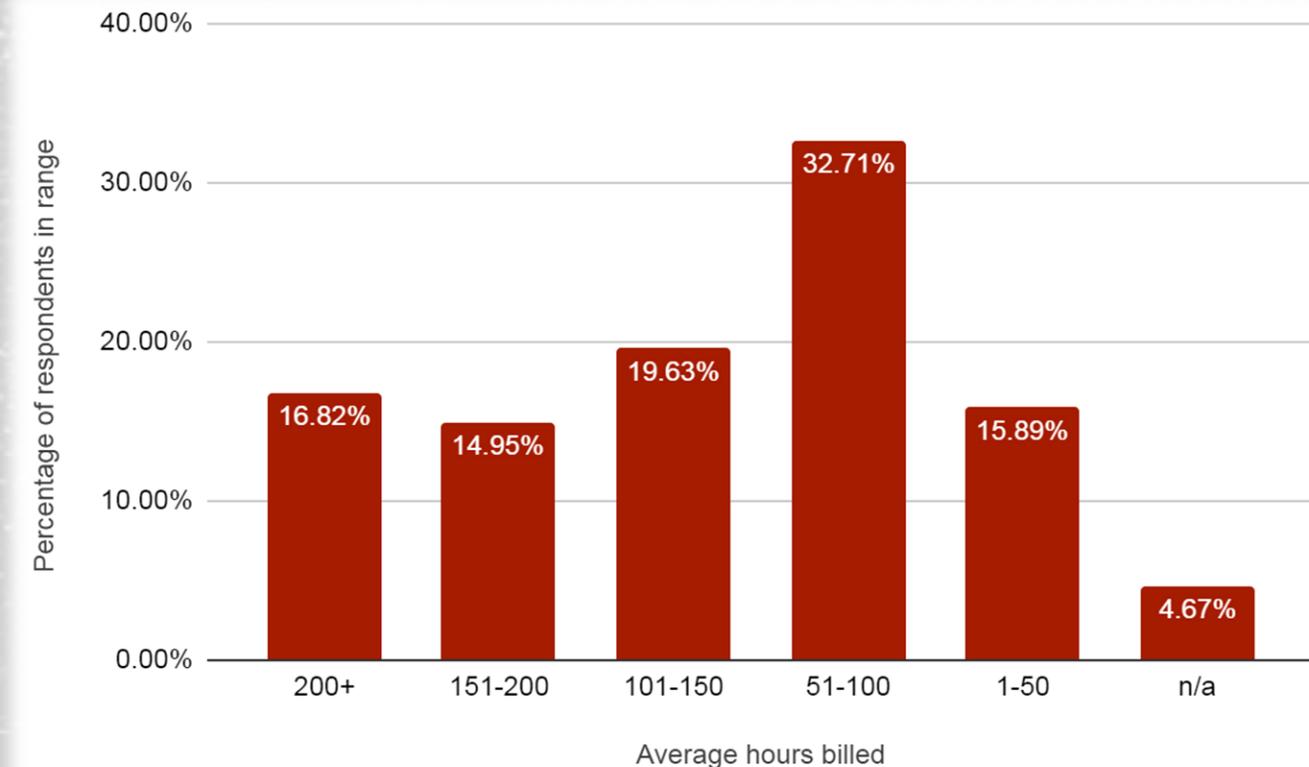
| Hours billed | Percentage of respondents |
|--------------|---------------------------|
| 200+         | 16.82%                    |
| 151-200      | 14.95%                    |
| 101-150      | 19.63%                    |
| 51-100       | 32.71%                    |
| 1-50         | 15.89%                    |
| n/a          | 4.67%                     |

## AVERAGE HOURS BILLED IN A MONTH

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|                                    | 25th<br>Percentile | Average | 75th<br>Percentile |
|------------------------------------|--------------------|---------|--------------------|
| Incl. those who do not bill hourly | 3.75               | 97.92   | 140                |
| Excl. those who do not bill hourly | 87.5               | 130.56  | 150                |

## **AVERAGE HOURS BILLED IN A MONTH CONT.**

GRM Intelligence was also able to split our data between professionals who do and do not bill hourly. Which adds deeper insight into the graph above.



|                  | 25th Percentile | Average       | 75th Percentile |
|------------------|-----------------|---------------|-----------------|
| Managing Partner | R3,768,000.00   | R5,130,000.22 | R6,396,000.00   |
| Equity Partner   | R3,300,000.00   | R4,667,000.00 | R5,925,000.00   |
| Partner          | R3,100,000.00   | R4,394,482.76 | R5,500,000.00   |
| Senior Associate | R2,300,000.00   | R3,354,930.29 | R4,100,000.00   |
| Junior Associate | R1,138,500.00   | R2,535,929.66 | R3,437,500.00   |

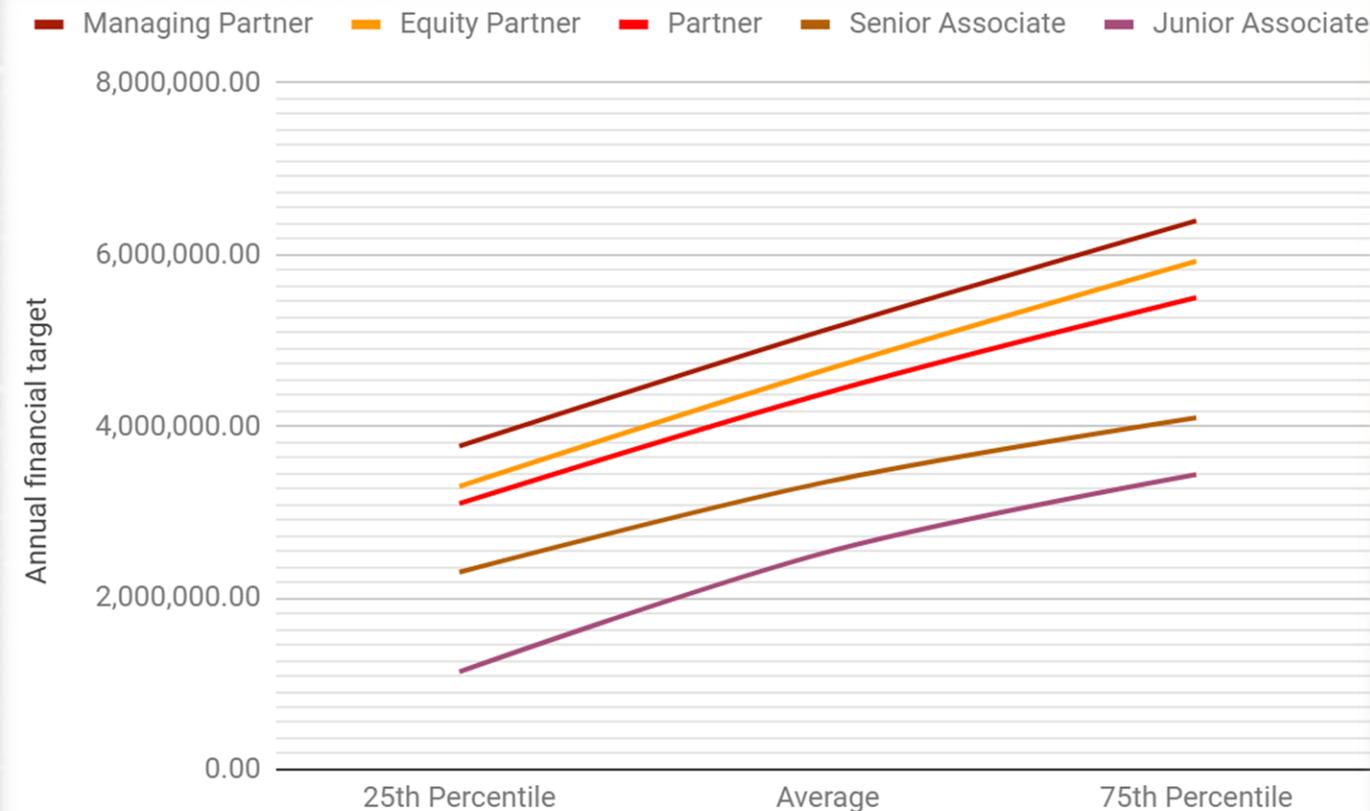
## TARGETS & TARGET ACHIEVEMENT

GRMi finds that the most common method used by South African law firms for determining targets is cost to company times a factor (most commonly by a factor of three followed closely by a factor of two). More and more however we are seeing targets being set per individual, by taking the time to understand an individual's expertise and capabilities, considering previous performance as well as the deal flow in their practice areas and sector specialisations.

GRMi has seen a number of instances where annually a set financial amount is added to the previous years targets to determine new targets. Several firms have also been found to grow targets by inflation or a previously agreed upon fixed percentage.

In most cases we see that private practice lawyers will have both a financial and a billable hours target (generally the financial target equates to the billable hours target multiplied by the charge out rate).

Looking at Candidate Attorneys, the vast majority (82.67%) did not have financial or billable hours targets. Some did but the variance across firms and cities they worked in made statistical analysis of these findings misleading. The range was from R0.00 - R800,000.



## TARGETS & TARGET ACHIEVEMENT CONT.

As mentioned in the beginning of this report, target achievement remains a major concern for legal professionals and law firms alike.

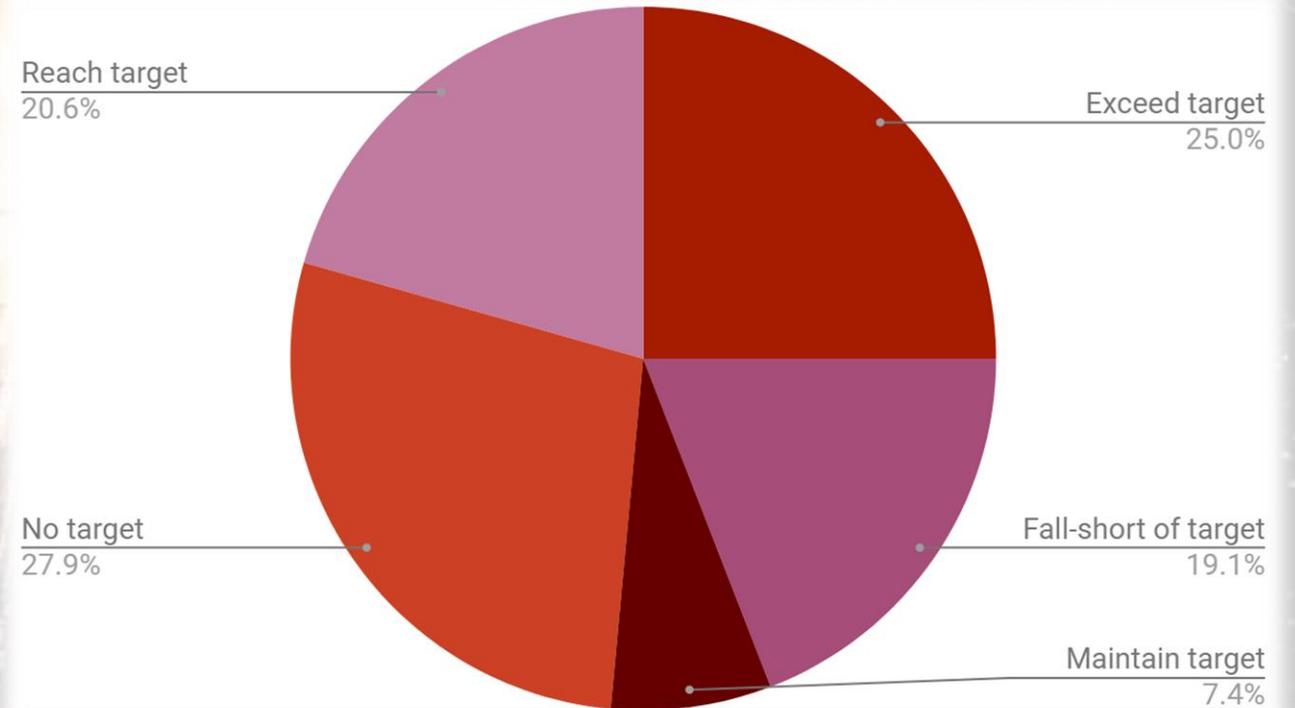
Associates are typically reliant on performance-based commission as a main driver of remuneration, and with some firms having risk salaries (withholding a portion of base salary if targets are not met) there is both a punishment and an incentive to ensure target achievement.

At the more senior level, Partners need the associates and fellow Partners to reach their targets in that profit-sharing incentives are reliant on a profit being made.

Considering that it is highly unlikely that all billables will be collected (or even collected timeously) there is huge pressure to ensure targets are exceeded across the team.

Looking at the pie chart to the right we see that GRMi's data suggests that only a quarter (25%) of legal professionals were able to exceed their targets and a further 20.6% reached their target, and 7.4% maintained their target. A staggering 19.1% of legal professionals in our data set fell short of their target which is problematic. Overall 27.9% had no targets, the bulk of whom were candidate attorneys.

|                      |        |
|----------------------|--------|
| Exceed target        | 25.00% |
| Fall-short of target | 19.12% |
| Maintain target      | 7.35%  |
| No target            | 27.94% |
| Reach target         | 20.59% |

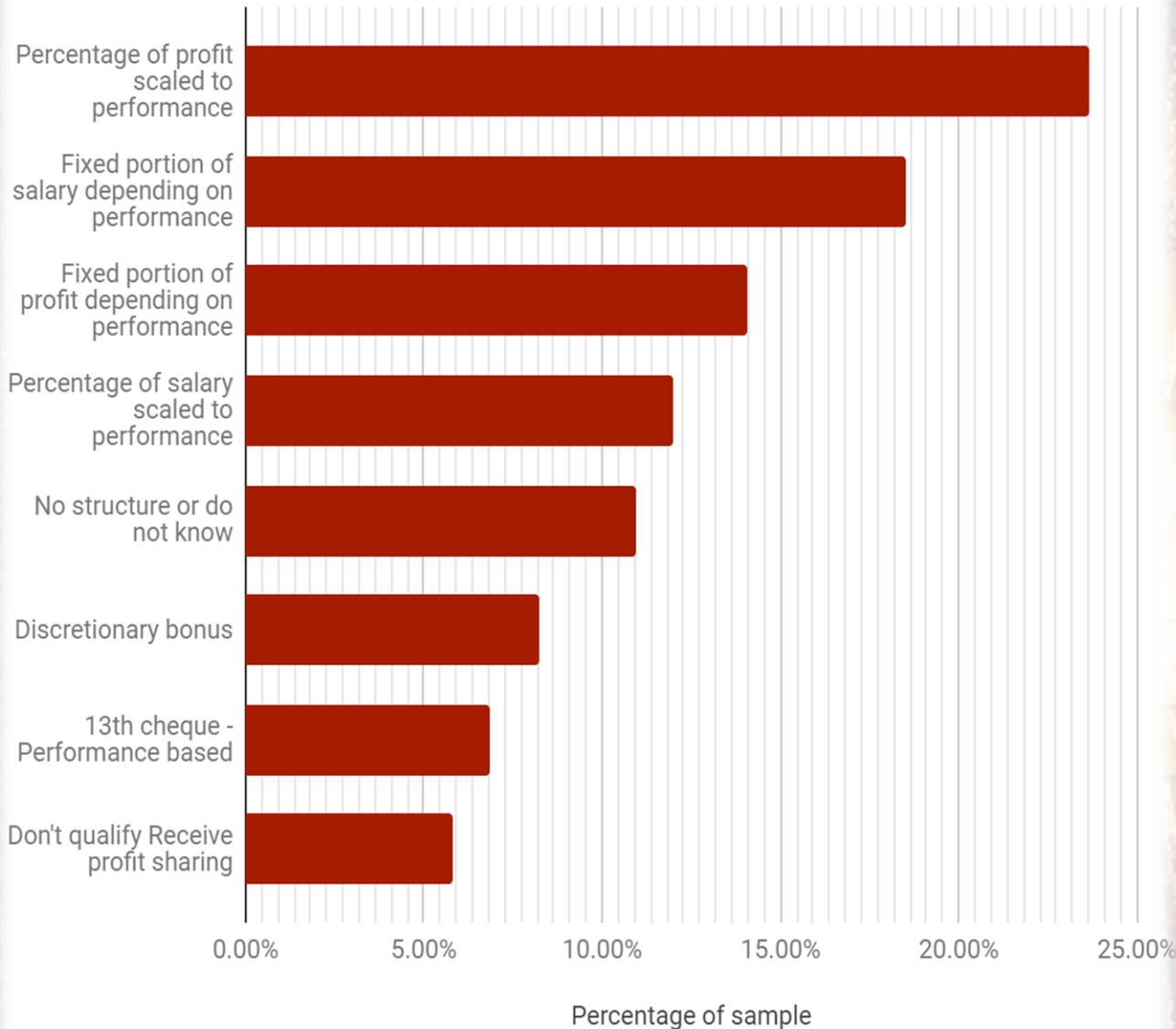


## PERFORMANCE COMPENSATION STRUCTURES

GRM finds a plethora of performance compensation structure (or apparent lack thereof) across law firms in South Africa with no two firms structuring their performance compensation structures in the same way.

Three categories of structures can be seen:

1. Percentage of profits or salaries
2. Fixed portion of profits or salaries
3. Discretionary



| Structure  | Percentage of sample |
|--|----------------------|
| Percentage of profit scaled to performance       | 23.63%               |
| Fixed portion of salary depending on performance | 18.49%               |
| Fixed portion of profit depending on performance | 14.04%               |
| Percentage of salary scaled to performance       | 11.99%               |
| No structure or do not know                      | 10.96%               |
| Discretionary bonus                              | 8.22%                |
| 13th cheque - Performance based                  | 6.85%                |
| Don't qualify Receive profit sharing             | 5.82%                |

## PERFORMANCE COMPENSATION STRUCTURES CONT.

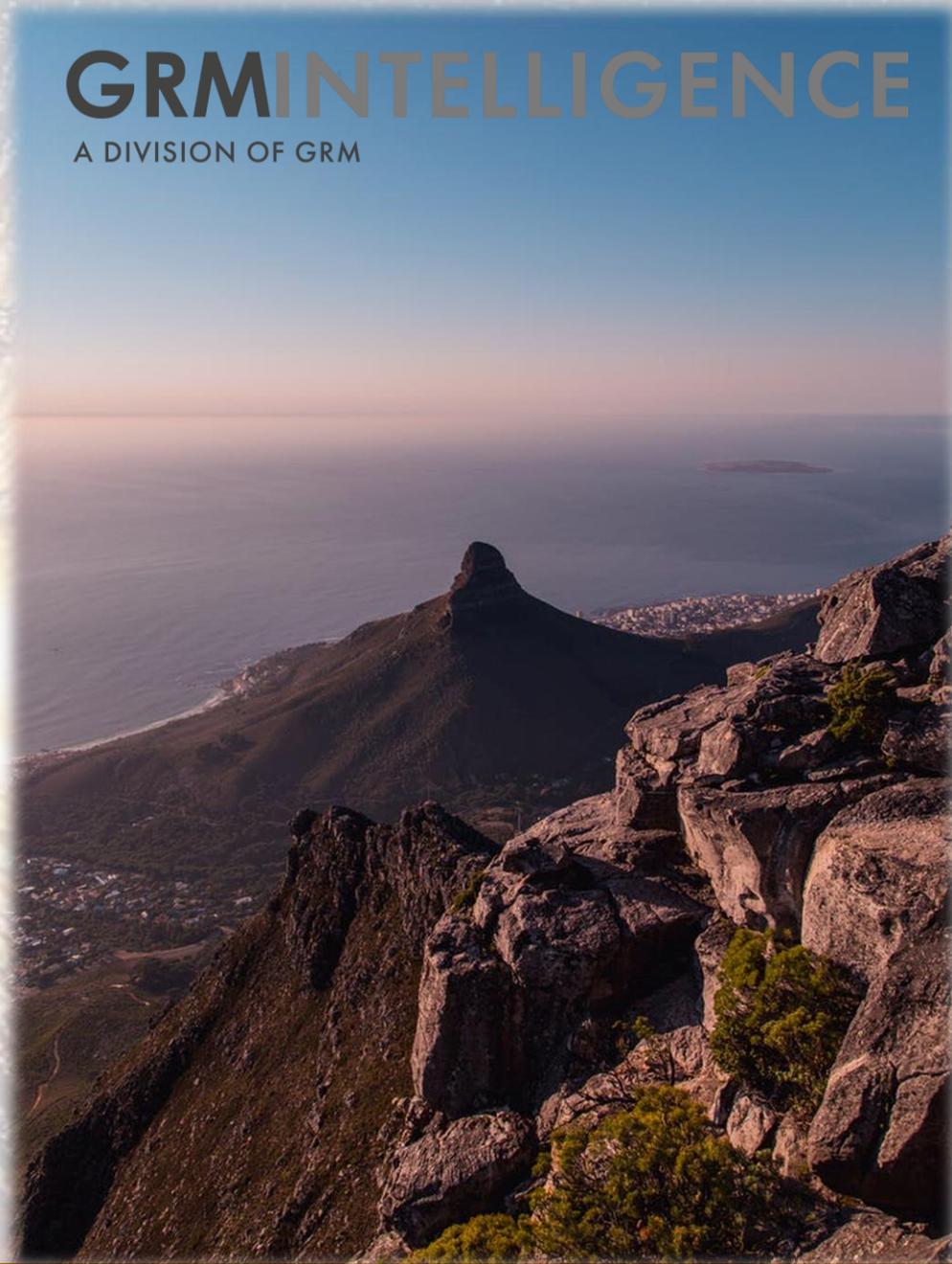
In terms of 'percentage of profit scaled to performance' compensation structures we see the ranges typically between 5-25% with some instance as high as 75-85% where the legal professional is acting as a consultant and has a close to zero cost to company.

In terms of 'fixed portion of salary if target is achieved' compensation structures GRMi finds that typically firms will offer half of salary or a third of salary (in some cases cost to company), over and above the usual salary, if targets are achieved. In terms of a fixed portion of profits we find that the percentages tend to be lower with most firms offering this compensation structure offering between a quarter and a tenth of the profits generated.

Those without a structure tended to work for sole proprietors, had recently started their jobs and targets and performance compensation had not yet been discussed, or were candidate attorneys and were not sure if they would receive anything.

Year-on-year we see fewer and fewer firms offering discretionary bonuses and 13th cheques. Many firms who do still have a target-based clear structure in place as well. Those who don't qualify for performance compensation were partners who received profit sharing and/or equity payouts.

We find that the vast disparity in performance compensation structures makes it difficult for legal professionals to compare and contrast the financial benefit of new opportunities.

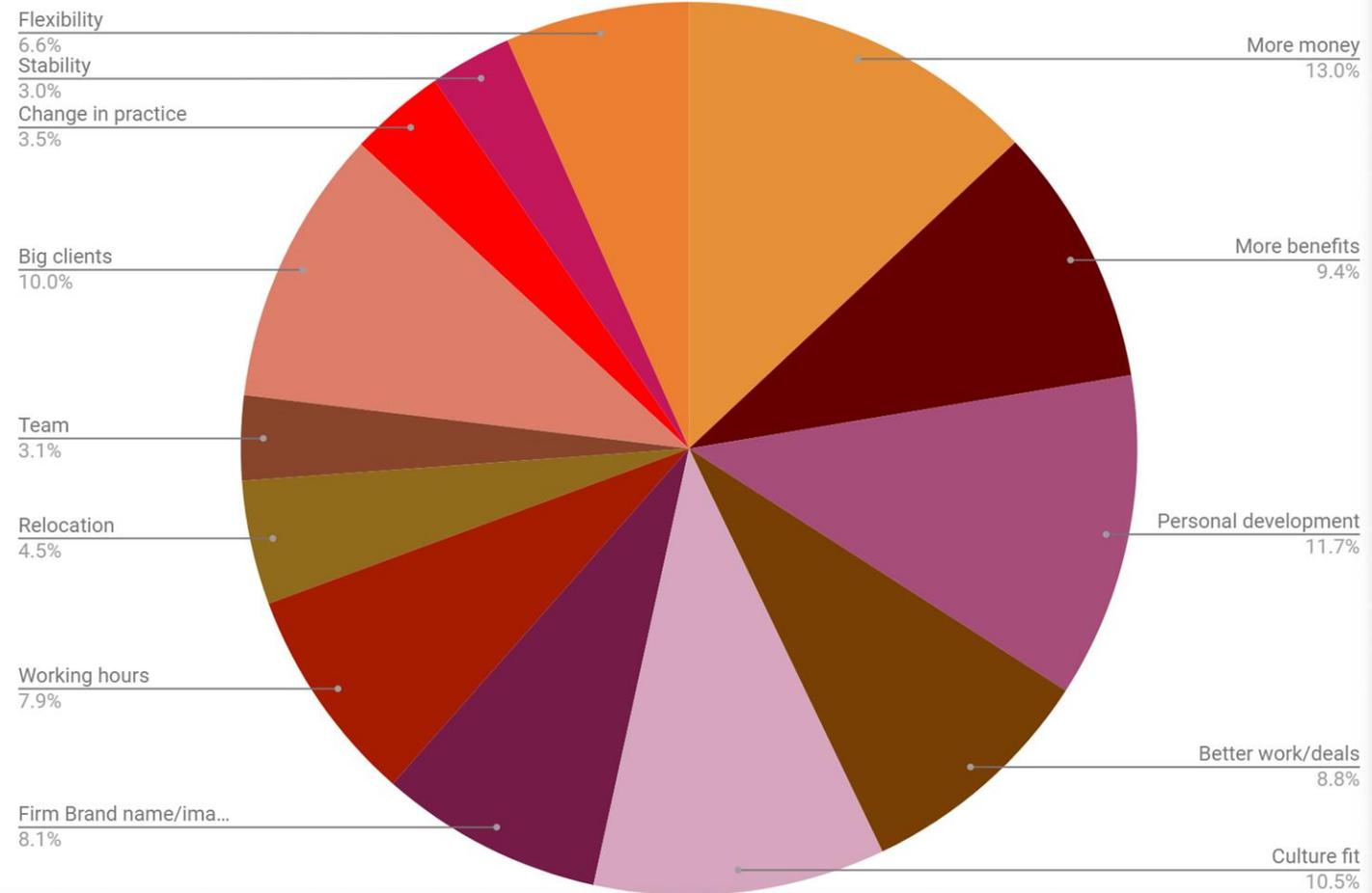


## MAIN JOB VALUATION CRITERIA

There are a plethora of reasons why people are looking for alternative job opportunities or the criteria by which they evaluate job offers (and in most cases more than one than). As can be expected better compensation packages are always a major criterion for most people, across the world, across industries, and across levels of seniority. Our data indicates that 11.6% of participants evaluate new job opportunities in terms of more money and 8.4% in terms of more benefits.

Personal development is another major criterion for 11.7% of respondents. Linked closely to this is the desire for better work or deals (8.8% of respondents), firm brand name or image (8.1% of respondents), and big clients (10% of respondents). Culture fit (10.5% of respondents) is becoming increasingly pertinent for legal professionals, significantly more so than working for a stronger team (3.1% of respondents). In terms of work life balance GRMi finds 6.6% of respondents would move for greater flexibility, and 7.9% would move for better working hours.

Looking at some of the less significant criterion, 3% for greater stability, 4.5% in order to relocate (the majority of whom expressed a desire to immigrate), and 3.5% would consider job opportunities that allowed them to expand or change the practice areas or sectors they are working in.



## CLOSING REMARKS

We see several firms doing away with annual reviews and putting more energy and resources into continuous performance tracking and feedback which replaces leaving performance issues unidentified and unresolved for a year with continuous improvement. Several law firms are broadening their performance indicators to include things such as; business development targets, fee collections, collaboration, quality of legal work, and personal development goals to name a few.

Most law firms are still using target achievement as a means for promotion and redundancy decisions. We do however see performance compensation determination shifting and changing. We see a strong preference for clear performance compensation structures as opposed to discretionary ones, particularly for large and medium-sized firms.

With the South African economy still having a long recovery ahead, firms are not looking to reduce billable hour and financial targets. Performance compensation structures are however changing to encourage meeting ever higher targets through risk salaries (receiving a lower salary if targets are not met) and performance structures which are scaled depending on the level of target achievement. Most law firms are streamlining their workforce and pushing their associates into overdrive. There is a clear focus on doing more with less and taking on workload from redundant colleagues.

We see several firms moving away from performance compensation based on billables towards a profit compensation structure. This means that the cost of a lawyer or team is offset against the billables before calculating performance compensation. From a performance management point of view, firms adopting this model have advised that understanding profitability of individuals and teams assists not only in performance management but also in understanding which teams should be invested in, which teams are too expensive relative to their profit. We are seeing a growing number of firms adopting zero-salary strategies whereby all their staff is remunerated on a highly attractive commission structure only as well as law firms opting to hire independent consultants who work under the firm's banner and in return these consultants give the firm a percentage of profits.

Lastly, we have seen cases where firms are not enforcing firmwide target policies but setting individually calculated targets once the lawyer has been with the firm for 3-6 months. This allows for the setting of targets relative to the individual and reduces undue pressure.

# GRM INTELLIGENCE

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## CONTACT US

Do you want a detailed performance compensation report including a breakdown per firm type, firm location or any other relevant variables?

Are you looking to benchmark your firm against competitors?

Do you have a human capital or legal landscape question anywhere in Africa?

Then you need to speak to GRMi first.

### Key contact

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