



Pro Bono Practices and Opportunities in the Republic of Ireland

INTRODUCTION

The practice of pro bono is continuing to grow and develop in the Republic of Ireland (“**Ireland**”) and there are high levels of enthusiasm for pro bono opportunities among the legal profession. Nevertheless, there remains room for expansion in the provision of pro bono services, with Ireland arguably lagging behind several other comparable common law countries.

OVERVIEW OF THE LEGAL SYSTEM

Constitution and Governing Laws

Ireland has a parliamentary democracy, with the President of Ireland elected directly by the people as its head of state,¹ and is a common law jurisdiction, derived from the English legal system. Irish courts are bound by precedent.² As a member of the European Union (the “**EU**”), Ireland’s legal system is also influenced significantly by EU law, with certain provisions having “direct effect” and thus being directly enforceable in Irish courts.³

The Courts

Ireland has a tiered court structure with the Supreme Court at the top, serving as the court of final appeal in civil and criminal matters. Beneath the Supreme Court is the Court of Appeal,⁴ and then the High Court, Circuit Court (with appeals going to the High Court) and, at the bottom of the structure, the District Court. The courts have jurisdiction over all civil and criminal matters with the District Court dealing with the most minor civil and criminal cases.⁵ Some specialist matters, such as employment and social welfare cases, are dealt with by tribunals, which are similar to courts but aim to be less expensive and formal.⁶

Judges for all courts are appointed by the President of Ireland upon the recommendation of the Judicial Appointments Advisory Board (the “**Board**”).⁷ Persons seeking to be appointed as judges must apply to the Board, with the Board then making submissions to the Minister for Justice who, in turn, advises the

¹ See <http://www.president.ie/en/the-president/constitutional-role> (last visited on September 4, 2015).

² See <http://www.lawlibrary.ie/Legal-Services/The-Courts-System.aspx> (last visited on September 4, 2015).

³ In addition, Ireland is a signatory to the European Convention on Human Rights, which is distinct from the EU, and which imposes obligations on the State to safeguard certain fundamental rights (see further at section III(a)(ii) below).

⁴ The Court of Appeal deals with appeals from the High Court (civil) and the criminal courts (the Criminal division of the Circuit Court, the Central Criminal Court, and the Special Criminal Court).

⁵ See <http://www.courts.ie/Courts.ie/library3.nsf/PageCurrentWebLookUpTopNav/The%20Courts> (last visited on September 4, 2015), see also a useful structure chart available at [http://www.courts.ie/Courts.ie/library3.nsf/\(WebFiles\)/0B793FD2FDA553AA80257D86005C63F9/\\$FILE/Structure%20of%20the%20courts%20October%202014.pdf](http://www.courts.ie/Courts.ie/library3.nsf/(WebFiles)/0B793FD2FDA553AA80257D86005C63F9/$FILE/Structure%20of%20the%20courts%20October%202014.pdf) (last visited on September 4, 2015).

⁶ E.g. see http://www.workplacerelations.ie/en/Workplace_Relations_Bodies/Employment_Appeals_Tribunal/ (last visited on September 4, 2015).

⁷ The Board exercises its powers pursuant to the Courts and Court Officers Act 1995; see also the Judicial Appointments Advisory Board website at: (<http://www.jaab.ie/JAAB/jaab.nsf/WebPages/3649D5B8EA5A3BF2802573D9003084AE>) (last visited on September 4, 2015).



President in relation to appointments.⁸ Although each appointment is ultimately made by the President, the person recommended by the Board must be given first consideration.⁹

The Practice of Law

The legal profession in Ireland is divided into barristers and solicitors.

Education

The educational requirements for barristers and solicitors differ, reflecting the different roles that each plays within the legal system. Qualification for barristers is a three-stage process that requires: (i) either (a) a law degree, or (b) a non-law degree combined with the Diploma in Legal Studies;¹⁰ (ii) a year of vocational training focusing on practical skills (which may be taken only upon successful completion of an entrance examination into the Honourable Society of King's Inn);¹¹ and (iii) a year-long pupillage undertaken with a suitably qualified barrister.¹²

Qualification for solicitors is a five-stage process that requires: (i) a preliminary examination (university graduates are exempted from having to complete this stage); (ii) a "Final Examination" consisting of eight papers across different legal disciplines; (iii) a two-year training contract consisting of in-office training with a law firm; (iv) professional practice courses followed by end-of-course examinations; and (v) admission to the roll of solicitors.¹³

Licensure

The Role of Barristers

Barristers provide specialist advocacy and advisory services, including in court and at arbitration hearings. Typically instructed by a solicitor, a barrister will have less direct contact with clients and will not provide the administrative services typically provided by a solicitor.¹⁴ Barristers begin their careers as junior counsel and may apply to become a senior counsel after a period of time (usually 12 years) to become senior counsel. The position of senior counsel is reserved for barristers of particular ability and experience. Approximately 12% of barristers are senior counsel and they typically work on the most serious and complex cases.¹⁵

The Role of Solicitors

Solicitors are professionally trained to provide clients with legal advice and representation on all legal matters (for example, conveyancing, wills and probate, and litigation)¹⁶ and tend to have more direct exposure to clients than barristers.

The Role of Foreign Lawyers

Foreign lawyers may apply to practice law in Ireland. The requirements that a foreign lawyer must fulfil before they can practice law in Ireland vary depending on the jurisdiction in which the foreign lawyer is qualified.¹⁷

⁸ *ibid.*

⁹ Courts and Court Officers Act 1995 s.16(6).

¹⁰ The requirement to combine the Diploma in Legal Studies with a non-law degree does not apply to students over 25, who may take it without any degree.

¹¹ This institution controls the entry of barristers-at-law into the justice system of Ireland.

¹² See <http://www.lawlibrary.ie/About-Us/FAQs.aspx> (last visited on September 4, 2015).

¹³ See <http://www.lawsociety.ie/Public/Become-a-Solicitor/> (last visited on September 4, 2015).

¹⁴ See <http://www.lawlibrary.ie/About-Us/What-We-Do.aspx> (last visited on September 4, 2015).

¹⁵ See <http://www.lawlibrary.ie/About-Us/FAQs.aspx> (last visited on September 4, 2015).

¹⁶ See <http://www.lawsociety.ie/Public/Become-a-Solicitor/> (last visited on September 4, 2015).



The Role of In-House Counsel

The majority of lawyers in Ireland work in private practice, but some work in-house, employed by commercial and industrial organisations or the public sector.¹⁸

Demographics

There are approximately 11,500 lawyers in Ireland,¹⁹ comprised of 2,300 practicing barristers²⁰ and 9,200 practicing solicitors (with women narrowly outnumbering men).²¹ With a population of approximately 4.56 million, this equates to approximately 397 people per lawyer in Ireland.

Legal Regulation of Lawyers

The Bar Council of Ireland (the “**Bar Council**”) is the representative body for barristers in Ireland and it is governed by the Constitution of the Bar of Ireland. The role of the Bar Council, among other things, is to control and regulate the conduct of members of the Bar Council and to secure and protect the interests of the profession.²²

The Law Society of Ireland (the “**Law Society**”) exercises statutory functions under the Solicitors Acts 1954 to 2013 in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. It is the professional body for its solicitor members, to whom it also provides services and support.²³

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

There is no automatic right to legal assistance in civil proceedings. In criminal proceedings, there is a right to legal assistance. The Supreme Court has held that there is a need to put the defendant on equal terms with the prosecution. Therefore, “if your constitutional right to legal representation applies and you don't have the means to pay for legal representation, then the State...is obliged to provide that legal representation.”²⁴

In addition, as Ireland is a party to the European Convention on Human Rights, each person has the right to a fair trial. This requires that everyone charged with a criminal offense has the right “to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.”²⁵

¹⁷ See <https://www.lawsociety.ie/Public/Foreign-Lawyers/> (last visited on September 4, 2015).

¹⁸ See <https://www.lawsociety.ie/Public/Become-a-Solicitor/> (last visited on September 4, 2015).

¹⁹ There are 2,300 barristers and 9,200 solicitors currently practising. However, this may underestimate the total number of lawyers as it excludes, for example, trainees and lawyers who are not currently practicing.

²⁰ See <http://www.lawlibrary.ie/About-Us.aspx> (last visited on September 4, 2015).

²¹ See <https://www.lawsociety.ie/News/Media/Press-Releases/Irish-solicitors-profession-reaches-major-landmark-in-gender-balance/> (last visited on September 4, 2015): figures released by the Law Society showed that at the end of 2014 there were 4,623 female practising solicitors and 4,609 male practising solicitors.

²² See <http://www.lawlibrary.ie/About-Us/Who-We-Are.aspx> (last visited on September 4, 2015).

²³ See <http://www.lawsociety.ie/About-Us/> (last visited on September 4, 2015).

²⁴ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html (last visited on September 4, 2015).

²⁵ European Convention on Human Rights Article 6(3)(c).



State-Subsidized Legal Aid

Civil Proceedings

Civil legal aid is administered by the Irish Legal Aid Board (the “**ILAB**”) pursuant to the Civil Legal Aid Act of 1996 and uses a complicated formula to determine eligibility. Legal aid is available for most types of civil proceedings but there are some exceptions where legal aid will not be provided such as defamation claims and land disputes.²⁶

An applicant must satisfy separate financial means and merits tests to meet the eligibility requirements for relief under the statute. In addition, those receiving legal aid must make a modest contribution (the amount of which is determined by the person’s disposable income).²⁷ In making this assessment, the ILAB will consider, among other things: (i) the prospect of success of the applicant’s case; (ii) the availability of other methods of resolving the applicant’s problem (for example, via mediation); and (iii) the cost to the ILAB of providing assistance weighed against the likely benefit to the applicant. The merits test is modified in cases involving the welfare of a child, such as custody and access issues.²⁸

Criminal Proceedings

Criminal legal aid is provided pursuant to the Criminal Justice (Legal Aid) Act 1962 (the “**Legal aid Act**”). Importantly, unlike civil legal aid, a recipient of criminal legal aid is not required to make a financial contribution.²⁹ In determining eligibility for criminal legal aid, a court considers (i) whether the applicant’s means are sufficient for him or her to pay his or her own legal representation; and (ii) taking into account the seriousness of the offense, whether it is in the interests of justice that the applicant should have legal aid in the preparation and conduct of his or her defense.³⁰

Even if an applicant is not eligible for criminal legal aid under the the Legal Aid Act, he or she may be entitled to free legal representation under another scheme. The ILAB administers a “Custody Issues Scheme” which provides legal representation in relation to certain forms of litigation, such as habeas corpus applications and Supreme Court bail motions.³¹ The areas covered by this scheme are outside the coverage of the civil or criminal legal aid programs. Therefore, this scheme meets an important need by providing assistance to those who may otherwise be denied access to justice.³²

In addition the Department of Justice and Equality has established a “Criminal Assets Bureau Ad-hoc Legal Aid Scheme” which provides legal representation to persons who otherwise cannot afford legal representation in relation to court proceedings commenced pursuant to certain legislative acts relating to criminal assets (for example the Proceeds of Crime Act 1996, as amended by the Proceeds of Crime (Amendment) Act 2005).³³ Financial and merit-based eligibility requirements for this scheme require the court to consider whether (i) the applicant’s means are insufficient to enable him or her to obtain legal representation on his or her own behalf; (ii) by reason of exceptional circumstances it is essential, in the

²⁶ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/legal_aid_board.html (last visited on September 4, 2015).

²⁷ See <http://www.legalaidboard.ie/lab/publishing.nsf/Content/Home> (last visited on September 4, 2015).

²⁸ See http://www.legalaidboard.ie/lab/publishing.nsf/content/LAB_FAQ_4 (last visited on September 4, 2015).

²⁹ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html (last visited on September 4, 2015).

³⁰ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html (last visited on September 4, 2015).

³¹ See http://www.legalaidboard.ie/lab/publishing.nsf/Content/Legal_Aid_Custody_Issues_Scheme (last visited on September 4, 2015).

³² See http://www.legalaidboard.ie/lab/publishing.nsf/Content/Legal_Aid_Custody_Issues_Scheme (last visited on September 4, 2015).

³³ See http://www.legalaidboard.ie/lab/publishing.nsf/Content/criminal_assets_bureau_ad-hoc_legal_aid_scheme (last visited on September 4, 2015).



interests of justice, that the applicant should have legal aid in the preparation and conduct of his or her case; and (iii) the type of proceeding at issue is embraced by the scope of the scheme.³⁴

Mandatory assignments to Legal Aid Matters

Private attorneys are not obligated to participate in the legal aid scheme.³⁵ Generally, civil legal aid is provided by the ILAB in its law centers or by lawyers employed by the Board.³⁶ For criminal legal aid, the judge assigns a solicitor from the legal aid panel to a recipient's case. Each county registrar maintains a list of solicitors who are willing to provide criminal legal aid. The Minister for Justice and Equality also compiles and maintains a similar list of barristers willing to provide legal aid (nominated by the Bar Council).³⁷ Recipients of criminal legal aid are issued a legal aid certificate which entitles their lawyers to be paid for the work that they perform.³⁸ The certificate covers fees, costs and expenses incurred in the preparation and conduct of defense, the cost of an appeal or a case stated and includes the fees of a solicitor and in certain circumstances, up to two counsel or barristers. It also covers the fees of non-legal professionals required for the preparation and conduct of a recipient's defense.

Unmet Needs and Access Analysis

Civil

Civil legal aid is not available for all areas of law or in all types of proceedings. There are nine designated areas of law that are excluded from the civil legal aid scheme as well as almost all proceedings within the tribunals.³⁹ These exclusions constitute a significant gap in the civil legal aid regime, which is filled largely by pro bono schemes, such as the PILA Pro bono Referral Scheme. Additionally, the requirement for a contribution to be made towards costs also constitutes a gap in the provision of legal aid, potentially excluding those of relatively modest means.

Moreover, the legal aid scheme is oversubscribed and waiting times can be long. The target maximum waiting time for a first consultation with a solicitor is four months. However, as of January 2015, only nine out of 30 law centers had waiting lists within this limit, and at Tallaght, the center with the longest waiting time, applicants had to wait 50 weeks to receive legal aid.⁴⁰

Criminal

There are gaps in the coverage of criminal legal aid under the Legal Aid Act. Some types of proceedings, such as extradition proceedings and most judicial review proceedings, are excluded from the criminal

³⁴ See http://www.legalaidboard.ie/lab/publishing.nsf/Content/criminal_assets_bureau_ad-hoc_legal_aid_scheme (last visited on September 4, 2015).

³⁵ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html and http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/civil_legal_advice_and_legal_aid.html (both last visited on September 4, 2015).

³⁶ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/civil_legal_advice_and_legal_aid.html (last visited on September 4, 2015).

³⁷ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html (last visited on September 4, 2015).

³⁸ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/legal_aid_certs.html (last visited on September 4, 2015).

³⁹ FLAC have argued that the exclusion of tribunals from civil legal aid is "not consistent with a vindication of the right to a fair trial as guaranteed by the Irish courts and international human rights law": *ibid* (p.6).

⁴⁰ See <http://www.flac.ie/priorityareas/civil-legal-aid/> (last visited on September 4, 2015).



legal aid scheme.⁴¹ Additionally, the subjective enforcement of the eligibility requirements denies aid to many persons in need.

Alternative Dispute Resolution

Alternative Dispute Resolution is available in Ireland, and persons seeking to resolve disputes outside of the traditional court system may do so by engaging in mediation or arbitration.⁴² The Mediators' Institute of Ireland promotes the use and practice of quality mediation as a process of dispute resolution, and approves qualified mediators who are bound by a code of ethics.⁴³ Arbitration is also promoted in Ireland by the Chartered Institute of Arbitrators.⁴⁴ The Arbitration Act 2010 has codified the law in this area and sought to bring it into line with international standards.

Ombudsmen

In addition, Ireland has various ombudsmen who deal with complaints and disputes in relation to particular matters.⁴⁵ For example, the Financial Services Ombudsman deals independently with unresolved complaints from consumers dealing with financial service providers and has the power to investigate and adjudicate such complaints.⁴⁶ The Financial Ombudsman encourages the parties to pursue mediation as a first step, and a mediation service is provided free of charge.⁴⁷

PRO BONO ASSISTANCE

Pro bono Opportunities

Private Attorneys

Private attorneys are not mandated to do pro bono in Ireland and there is no requirement to report the number of hours spent on pro bono. Nevertheless, the 2014 Public Interest Law Alliance ("PILA") pro bono survey found that 72% of barristers had previously engaged in pro bono, with 41% reporting that they did so on a regular basis.⁴⁸ The picture was similar for solicitors, with 74% of solicitors / trainee solicitors having undertaken pro bono, and 35% reporting to do so on a regular basis.⁴⁹

Law Firm Pro bono Programs

As pro bono continues to develop in Ireland, law firms are increasingly focusing on pro bono.⁵⁰ For example, A&L Goodbody, one of Ireland's largest law firms, devoted over 2,800 hours to various pro bono projects in 2014.⁵¹

⁴¹ See http://www.citizensinformation.ie/en/justice/legal_aid_and_advice/criminal_legal_aid.html (last visited on September 4, 2015).

⁴² See <http://www.lawlibrary.ie/legal-services/alternative-dispute-resolution.aspx> (last visited on September 4, 2015).

⁴³ See <http://www.themii.ie/index.jsp> (last visited on September 4, 2015).

⁴⁴ See <https://www.ciarb.org/branches/ireland> (last visited on September 4, 2015).

⁴⁵ See <http://www.ombudsmanassociation.org/association-members-by-country.php?area=2> (last visited on September 4, 2015).

⁴⁶ See <https://www.financialombudsman.ie/> (last visited on September 4, 2015).

⁴⁷ See <https://www.financialombudsman.ie/> (last visited on September 4, 2015).

⁴⁸ PILA, Pro bono Survey 2014, see n 12 above, p.11.

⁴⁹ PILA, Pro bono Survey 2014, see n 12 above, p.5.

⁵⁰ E.g. <http://www.mccannfitzgerald.ie/firm/corporate-responsibility.aspx>; <http://www.arthurcox.com/who-we-are/community/pro-bono-work/>; http://www.algoodbody.com/Corporate_Responsibility_Pro_Bono; <http://www.mhc.ie/about/pro-bono> (all last visited on September 4, 2015).



PILA, a public interest law organization established by FLAC in 2009 to promote access to justice, works with 14 law firms, including several of Ireland's largest firms, on a number of different projects and initiatives.⁵² For example, PILA has collaborated with A&L Goodbody to provide assistance to the Irish Refugee Council, representing applicants in the first stage of the asylum process.⁵³

Non-Governmental Organizations (“NGOs”)

As part of their aim to promote equal access to justice, FLAC runs a telephone information and referral line offering basic legal information to the public. For complex queries, individuals may be directed to a legal advice center operated by FLAC, where legal advice from either a volunteer barrister or solicitor will be provided. The volunteer helps to establish whether there is a legal solution, explain the options available and direct the individual so that he or she may obtain further assistance. FLAC, however, does not provide legal representation.⁵⁴

PILA operates a pro bono referral scheme that matches expertise in the legal profession (both barristers and solicitors) with specific legal needs of NGOs, community groups and law centers (the “**PILA Pro bono Referral Scheme**”). PILA has a public interest law focus, and currently works with organizations seeking to effect social change for marginalized and disadvantaged people. The PILA Pro bono Referral Scheme is the primary pro bono matching service in Ireland and has facilitated over 170 referrals since 2009.⁵⁵

Bar Association Pro bono Programs

In 2004, the Bar Council established a “voluntary assistance” scheme (“**VAS**”) aimed at offering access to justice to financially challenged individuals,⁵⁶ whereby barristers provide their services to NGOs working with members of the community who could not otherwise afford representation.⁵⁷ Under this program, NGOs serve the referral function that would normally be filled by solicitors.⁵⁸ NGOs and charities approach VAS directly, who then seek to match the client with a suitable barrister. There is no direct contact between VAS and the client. The NGOs brief the barristers directly, who in turn provide advocacy and advisory representation to clients.⁵⁹

University Legal Clinics and Law Students

There are generally high levels of engagement with, and enthusiasm for, pro bono among law students,⁶⁰ with most higher-education institutions engaging with the PILA pro bono scheme.⁶¹ For example, there are currently seven student FLAC societies operating in universities in Ireland that administer information

⁵¹ See http://www.algoodbody.com/Corporate_Responsibility_Pro_Bono (last visited on September 4, 2015).

⁵² See http://pelorous.totallyplc.com/media_manager/public/138/Progress%20Report%202013.pdf (last visited on September 4, 2015).

⁵³ See http://pelorous.totallyplc.com/media_manager/public/138/Progress%20Report%202013.pdf (last visited on September 4, 2015).

⁵⁴ See <http://www.flac.ie/help/centres/whattoexpect.html> (last visited on September 4, 2015).

⁵⁵ 2013 PILA progress report.

⁵⁶ See <http://www.lawlibrary.ie/legal-services/voluntary-assistance-scheme/vas-faq.aspx> (last visited on September 4, 2015).

⁵⁷ See The Irish Bar Council's Voluntary Assistance Scheme, Annual Report 2011, available at http://www.lawlibrary.ie/docs/The_Bar_Councils_Voluntary_Assistance_Scheme/542.htm (last visited on September 4, 2015).

⁵⁸ *ibid.*

⁵⁹ *ibid.*

⁶⁰ See PILA, Pro bono Survey 2014, n 12.

⁶¹ See http://pelorous.totallyplc.com/media_manager/public/138/Progress%20Report%202013.pdf (last visited on September 4, 2015).



clinics. At the clinics, the student population receives legal information from qualified practitioners who supervise law students.⁶²

A recent survey conducted by PILA found high levels of pro bono participation among students, with 63% of students reporting that they had done some pro bono over the course of their studies and 98% believing that pro bono helped to develop their legal skills.⁶³

Current State of Pro bono

The Director of the Law Society has claimed that “the undertaking of legal work for people with legal needs but no capacity to pay is part of the culture and tradition, part of the DNA, of the legal profession in Ireland.”⁶⁴ Based on a survey of barristers and solicitors, both branches of the profession have a positive attitude towards pro bono work and view it as worthwhile. 60% of barristers and 76% of solicitors felt that pro bono work was personally rewarding, with 78% of barristers and 65% of solicitors responding that they believed it was their professional responsibility to engage in pro bono.⁶⁵

Two substantive areas of law have had a particularly high demand for volunteer legal services in the recent past. The first is human rights law, particularly for refugees and asylum-seekers. Since the passage of the Irish Human Rights Act in 2003, Irish litigants must either pay for their own representation costs or find a solicitor (often through FLAC) willing to represent them on a pro bono basis.⁶⁶ Law centers specifically tailored to meet the needs of Ireland’s immigrants in conjunction with the Immigrant Council of Ireland and the Irish Refugee Council Independent Centre help to alleviate the legal problems related to refugees and asylum-seekers. Although the Civil Legal Aid Act makes provision for refugees and asylum-seekers, it is not clear that it has been successful in meeting the demand.

The second area of need relates to Ireland’s “travellers,” a traditionally itinerant ethnic group. The Irish Traveller Movement (the “ITM”) has an established legal unit to provide representation to these marginalized people. Travellers, many of whom are impoverished, have difficulty securing even basic legal services, and the ITM is actively recruiting solicitors willing to undertake these representations, preferably on a pro bono basis.⁶⁷

Laws and Regulations Impacting Pro bono

“Loser Pays” Statute

Under Irish law, the loser pays the winner’s litigation costs. This is not a cast-iron rule however, and the presiding judge has discretion as to the final costs order.⁶⁸

Rules Directly Governing Pro bono Practice

There are very few rules specifically governing pro bono and lawyers are permitted to engage in pro bono and raise awareness of pro bono opportunities. The main obstacles to pro bono being undertaken by

⁶² See <http://www.flac.ie/getinvolved/student.html> (last visited on September 4, 2015).

⁶³ PILA, Pro bono Survey 2014, pp.16-17. Available at http://www.flac.ie/download/pdf/full_pila_pro_bono_survey_2014.pdf (last visited on September 4, 2015).

⁶⁴ See <http://www.irishtimes.com/news/crime-and-law/working-pro-bono-good-idea-or-an-excuse-for-state-inaction-1.2138995> (last visited on September 4, 2015).

⁶⁵ PILA, Pro bono Survey 2014, see n 12 above, pp. 8 and 14. Conversely only 0.5% of solicitors and 0% of barristers felt that pro bono was of no value, and 0.5% of solicitors and 1% of barristers felt that it had a negative impact on the profession (by taking paid work away from other law firms).

⁶⁶ See LAW SOCIETY OF IRELAND, An Unconventional Approach, LAW SOCIETY GAZETTE, 28 (Jan./Feb. 2003).

⁶⁷ See LAW SOCIETY OF IRELAND, Remember When You Wanted to Make a Difference?, LAW SOCIETY GAZETTE, 10-11 (Mar. 2004).

⁶⁸ See <http://www.chambersandpartners.com/guide/practice-guides/location/241/6601/1481-200> (last visited on September 4, 2015).



lawyers are a lack of time and limited awareness of the available opportunities, rather than any systemic barriers or rules restricting pro bono practice.⁶⁹

Practice Restrictions on Foreign-Qualified Lawyers

Foreign-qualified lawyers may not practice law in Ireland (including pro bono work) without first receiving the correct accreditation. The registration requirements for foreign lawyers vary depending on the jurisdiction in which the foreign lawyer is qualified.

Concerns About Pro bono Eroding Public Legal Aid Funding

There have been concerns that the existence of legal aid has hindered the development of pro bono services in Ireland. The overstretched legal aid scheme has created the impression that the legal needs of Ireland's indigent population are being met. Many commentators agree, however, that the Irish legal aid scheme has been inadequate to meet the needs of many clients.⁷⁰ Some critics have gone so far as to hold that a formal pro bono scheme would only be a stop-gap solution that would further obscure the failings of a troubled legal aid regime, encouraging the government to continue to underfund the existing programs.⁷¹ Although this viewpoint has hindered progress in the past, this has largely dissipated in recent years as the need for a formal pro bono network to complement legal aid has become more obvious.

Regulations Imposing Practice Limitations on In-House Counsel

In-house counsel providing legal services only for their employer are exempted from the requirement to maintain insurance.⁷² Because of this, in-house lawyers may not have necessary legal insurance for certain pro bono work.

Availability of Professional Indemnity Legal Insurance Covering Pro bono activities by Attorneys

Both barristers and solicitors must have up-to-date professional indemnity insurance at a level not less than the prescribed minimum.⁷³ The Bar Council sets the minimum requirements for barristers. For solicitors, the minimum terms of professional indemnity insurance are laid down by statute, and cover pro bono services.⁷⁴ More information about obtaining professional indemnity insurance for solicitors is available via the Law Society's website.⁷⁵

Socio-Cultural Barriers to Pro bono or Participation in the Formal Legal System

The primary obstacle to structured pro bono legal services has been the legal profession's lack of familiarity with the concept, as opposed to any regulatory impediments. Although conceptually it has long been a part of Irish legal culture, efforts to undertake pro bono work were typically piecemeal and ad hoc, most often as a result of personal relationships, or arising from an individual lawyer's strong sense of civic duty.⁷⁶ However, the success of pro bono in other jurisdictions and the increasing awareness of corporate

⁶⁹ PILA, Pro bono Survey 2014, see n 12 above.

⁷⁰ See, e.g., Can't Refuse, LAW SOCIETY GAZETTE, 17 (Dec. 2003).

⁷¹ See LAW SOCIETY OF IRELAND, Report of Law Society Council Meeting (held on Jul. 6, 2001), LAW SOCIETY GAZETTE, 39 (Aug./Sep. 2001) (citing a report showing that in countries where an institutionalized pro bono scheme had developed, governments had used such schemes as excuses for refusing to subsidize legal aid).

⁷² The Solicitors Acts 1954 to 2011 (Professional Indemnity Insurance) Regulations 2014, s.3(f).

⁷³ See <http://www.lawlibrary.ie/about-us/what-we-do/regulation/pii-responsibilities.aspx> (last visited on September 4, 2015); and <https://www.lawsociety.ie/Solicitors/Practising/PII/> (last visited on September 4, 2015).

⁷⁴ The Solicitors Acts 1954 to 2011 (Professional Indemnity Insurance) Regulations 2014, Appendix 1.

⁷⁵ See <https://www.lawsociety.ie/Solicitors/Practising/PII/> (last visited on September 4, 2015).

⁷⁶ See, e.g., What Counts? A Compilation of Queries and Answers, THE LAW FIRM PRO BONO PROJECT, 6 (2003); cf. John Costello, Why we need a solicitor's pro bono scheme, LAW SOCIETY GAZETTE, 5-6 (Aug./Sep. 1998), available at <http://www.lawsociety.ie/Documents/Gazette/Gazette%201998/augustSeptember1998.pdf> (last visited on September 4, 2015) (defining "pro bono" practice as "legal work done without charge or at reduced cost, for members of the public with limited means, or for charitable and other non-profit making organizations").



social responsibility have helped the PILA Pro bono Referral Scheme and the Bar Council's VAS receive an increasingly positive response from both barristers and solicitors for structured pro bono opportunities.

Pro bono Resources

- The Bar Council of Ireland, law library; www.lawlibrary.ie (last visited on September 4, 2015)
- Citizens Information; www.citizensinformation.ie (last visited on September 4, 2015)
- FLAC; www.flac.ie (last visited on September 4, 2015)
- Irish Statute Book – Legislation Directory; http://www.irishstatutebook.ie/legislation_directory_acts.html (last visited on September 4, 2015)
- Law Society of Ireland; www.lawsociety.ie (last visited on September 4, 2015)
- Legal Aid Board; <http://www.legalaidboard.ie/lab/publishing.nsf/Content/Home> (last visited on September 4, 2015)
- PILA; www.pila.ie (last visited on September 4, 2015)
- TrustLaw's pro bono links; <http://www.trust.org/trustlaw/> (last visited on September 4, 2015)

CONCLUSION

Although Irish law has a relatively extensive provision of legal aid for both civil and criminal matters, significant gaps in coverage do exist.

Pro bono legal work continues to develop in the Republic of Ireland, with no real foreseeable legal impediments to its continued development. There are signs that the pace of development is increasing. Enthusiasm for pro bono is high among barristers, solicitors and students alike. Indeed, the particularly high levels of pro bono engagement among students, bodes extremely well for the health of pro bono in the medium and long-term future.

August 2015

Pro Bono Practices and Opportunities in the Republic of Ireland

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