

Pro Bono Practices and Opportunities in England and Wales

I. Introduction

Pro bono legal services are of increasing importance for attorneys and law firms within England and Wales. There has been a growing commitment by the legal profession to the importance of pro bono legal services, and various organizations and institutions within England and Wales continue to work to foster and develop pro bono legal activity. One such example is the UK Collaborative Plan for Pro Bono, which is a profession-led initiative for law firms, through which participating law firms collaborate with each other in order to improve access to justice through pro bono. Law firms and Chambers in England and Wales are also becoming increasingly aware of the value their existing and prospective clients place on pro bono activities.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The legal profession in England and Wales is comprised of solicitors and barristers.</p> <p>Solicitors are governed by The Law Society and the Solicitors Regulatory Authority (the “SRA”). The SRA Handbook sets out the ethical and professional standards that solicitors must comply with.¹ The SRA also sets the entry and training requirements for solicitors.</p> <p>The Bar Standards Board (the “BSB”) regulates barristers in England and Wales. It is responsible for setting the standards of conduct, authorizing barristers to practice, monitoring the service provided by barristers, setting education and training requirements, handling complaints against barristers and taking enforcement or other action where appropriate. The BSB Handbook sets out the standards with which barristers must comply.²</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>To act as solicitor in England and Wales, one must hold a practicing certificate issued by the SRA. An admitted solicitor with a practicing certificate is an authorized person under the Legal Services Act 2007 (the “Act”).</p> <p>In order to practice at the Bar of England and Wales, barristers must have a current practicing certificate issued by the BSB. This requirement is part of the Authorization to Practice regime under the Act.</p>

¹ See <https://www.sra.org.uk/solicitors/handbook/welcome.page> (last visited on May 1, 2019).

² See <https://www.barstandardsboard.org.uk/regulatory-requirements/bsb-handbook/the-handbook-publication/> (last visited on May 1, 2019).

(b)	Pro Bono Practice and Culture	
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>Pursuant to the SRA Handbook, solicitors in private practice owe the same duty of care when undertaking legal work on a pro bono basis as when acting for fee-paying clients. They must exercise competence, skill and diligence, and take into account the individual needs and circumstances of each client pursuant to Principle 5 of the SRA Handbook.</p> <p>Rule 4.10 of the SRA Practice Framework Rules 2011 states, among other things, that in-house solicitors may conduct work on a pro bono basis for a client other than their employer provided that (i) the work is covered by an indemnity reasonably equivalent to that required under the SRA Indemnity Insurance Rules and (ii) the only fees charged for such work are those received by way of costs from the pro bono client’s opponent or other third party and such fees must be paid to a charity under a fee sharing agreement.</p> <p>In-house solicitors must not undertake any reserved legal activities unless such provision of services to the public or a section of the public (with or without a view to profit) is not part of their employer’s business. A definition of “reserved legal activities” can be found online.³</p> <p>Self-employed barristers may provide pro bono legal services through a Legal Advice Centre, as provided for in rules rS41-42 of the BSB Handbook. Barristers must not receive either directly or indirectly any fee or reward for the supply of any legal services to any client of the Legal Advice Centre other than a salary paid by the Legal Advice Centre.</p> <p>Self-employed barristers who are Public Access-registered may provide pro bono legal services directly to members of the public if they comply with the Public Access requirements set out in rC119-rC131 of the BSB Handbook.</p>
	<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Solicitors and barristers in England and Wales are not required a minimum number of pro bono hours. However, the UK Collaborative Plan for Pro Bono (as described above) includes an aspirational target</p>

³ See <https://www.legislation.gov.uk/ukpga/2007/29/section/12> (last visited on May 1, 2019).

		of 25 pro bono hours on average per fee-earner per year. Member law firms promote this target as an appropriate minimum commitment for lawyers in England and Wales and as recognition of best practice, and collaborate with one another to achieve this target. ⁴
	3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?	Aspiring solicitors and barristers in England and Wales are not required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers.
	4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?	The main areas of law which require the provision of pro bono legal services in England and Wales include housing, family, employment, small business advice, immigration advice and welfare rights.
	5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?	The main providers of pro bono legal services in England and Wales are NGOs, legal advice centers, private law firms and Chambers and law clinics.
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	Lawyers do not require a license to provide pro bono legal services in England and Wales.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	Foreign-qualified lawyers are prohibited from providing advice as to the laws of England and Wales, and must inform potential recipients of legal advice where they are qualified to practice law. The Qualified Lawyers Transfer Scheme allows those who are already qualified lawyers in other jurisdictions to qualify as a solicitor of England and Wales. Qualified foreign lawyers must apply to the BSB in order to transfer to the Bar.
	3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?	Pro bono work undertaken by solicitors at law firms is generally covered under the professional indemnity insurance (“ PII ”) of that law firm. For in-house solicitors, it is not possible for them to conduct work on a pro bono basis other than where their employer provides PII. However, in-house

⁴ See <http://probonoplan.uk/>.

	<p>lawyers are able to carry out pro bono activities without insurance provided such work is done in a personal capacity.</p> <p>Barristers must ensure that either their personal insurance or the insurance of the body through which they provide services, covers them for any pro bono legal services being provided. If a barrister holds a self-employed practicing certificate, they must be a member of the Bar Mutual Indemnity Fund.</p>
<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>Rule 12 of the SRA Solicitors’ Code of Conduct 2007 states that where work is publicized as being done on a pro bono basis, there must be no fees charged to the client, except where a conditional fee agreement is used and the only fees charged are those which the firm receives by way of costs from the client’s opponent or other third party and which are paid to a charity under a fee sharing agreement.</p> <p>Under Rule rC19 of the BSB Handbook, barristers may not mislead, or cause or permit to be misled, any person to whom they offer to supply legal services.</p>
<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>Continuing Competence is the SRA’s system of assuring competence among solicitors. Under Continuing Competence, there is no requirement to complete a certain number of hours of education. Instead, solicitors are expected to review their learning needs and address them through continuing professional development activities. They are then asked to reflect on the learning and look at ways they can incorporate this into their practice. As such, if a solicitor identifies the providing of pro bono advice as a learning need, any pro bono work they undertake can contribute to the solicitor being able to make their required annual declaration to the SRA that they have reflected on their practice and addressed any identified learning and development needs.</p> <p>A new Continuing Professional Development (“CPD”) scheme for barristers was introduced on 1 January 2017. Under the scheme, established practitioners must now create a CPD plan which includes objectives, CPD activities and reflection of the process overall. There is no longer a requirement to undertake a minimum number of</p>

		CPD hours every year. No barrister is required to undertake accredited CPD courses.
(d)	Sources of Pro Bono Opportunities and Key Contacts	
	1. Describe any governmental sources of pro bono and/or other legal services in England and Wales.	Free legal support funded by the Government takes the form of Legal Aid. Legal Aid can help meet the costs of legal advice, family mediation and representation in a court or tribunal.
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in England and Wales.	<p>Law Centres are a network of over forty not-for-profit legal practices. Each Law Centre is an independent charity with a defined service area. Law Centres help people living in poverty or other disadvantage who cannot afford to pay for traditional commercial legal services. They provide legal advice and representation in social welfare law. Central contact details can be found online.⁵</p> <p>LawWorks is a charity working in England and Wales to connect volunteer lawyers with people in need of legal advice, who are not eligible for Legal Aid and cannot afford to pay and with the not-for-profit organizations that support them.⁶</p> <p>Citizens Advice provides free advice to anyone on their rights and responsibilities. It provides face to face advice from 2,500 local Citizens Advice locations across England and Wales, as well as by phone, web chat, post, email and its self-help website. Advice can be found online.⁷</p> <p>Advocate is a charity through which free legal advice from a barrister can be obtained. Chambers across England and Wales appoint an internal representative to champion pro bono work. These individuals work closely with Advocate to provide pro bono legal services.⁸</p> <p>The National Pro Bono Centre is a hub for pro bono charities across the legal sector. It supports a wide range of pro bono projects, helping individuals and community groups across England and Wales.⁹</p> <p>As described above, the UK Collaborative Plan for Pro Bono (the “Plan”) is a profession-led initiative for law firms. Pursuant to the Plan, a ‘trusted</p>

⁵ See www.lawcentres.org.uk (last visited on May 1, 2019).

⁶ See <https://www.lawworks.org.uk> (last visited on May 1, 2019).

⁷ See www.citizensadvice.org.uk (last visited on May 1, 2019).

⁸ See <https://weareadvocate.org.uk/> (last visited on May 1, 2019).

⁹ See <http://www.nationalprobonocentre.org.uk/> (last visited on May 1, 2019).

		referral network' has been established to facilitate the referring of pro bono matters by member law firms to other member law firms.
	3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?	See above.

May 2019

Pro Bono Practices and Opportunities in England and Wales

This memorandum was prepared by **Latham & Watkins LLP** for the **Pro Bono Institute**. This memorandum and the information it contains is not legal advice and does not create an attorney-client relationship. While great care was taken to provide current and accurate information, the Pro Bono Institute and Latham & Watkins LLP are not responsible for inaccuracies in the text.