

# A Survey of *Pro Bono* Practices and Opportunities in 71 Jurisdictions

# Prepared by Latham & Watkins LLP for the Pro Bono Institute

August 2012

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.

© Copyright 2012. All Rights Reserved.

Foreword	1
Disclaimer	
Thanks	
Pro Bono Practices and Opportunities in Angola	1
Pro Bono Practices and Opportunities in Argentina	4
Pro Bono Practices and Opportunities in Australia	
Pro Bono Practices and Opportunities in Austria	16
Pro Bono Practices and Opportunities in Belgium	
Pro Bono Practices and Opportunities in Brazil	
Pro Bono Practices and Opportunities in Bulgaria	
Pro Bono Practices and Opportunities in Canada	
Pro Bono Practices and Opportunities in Chile	
Pro Bono Practices and Opportunities in China	
Pro Bono Practices and Opportunities in Colombia	47
Pro Bono Practices and Opportunities in the Czech Republic	51
Pro Bono Practices and Opportunities in Denmark	57
Pro Bono Practices and Opportunities in Egypt	
Pro Bono Practices and Opportunities in England & Wales	65
Pro Bono Practices and Opportunities in Finland	72
Pro Bono Practices and Opportunities in France	
Pro Bono Practices and Opportunities in Germany	
Pro Bono Practices and Opportunities in Ghana	
Pro Bono Practices and Opportunities in Greece	
Pro Bono Practices and Opportunities in Hong Kong	
Pro Bono Practices and Opportunities in Hungary	
Pro Bono Practices and Opportunities in India	
Pro Bono Practices and Opportunities in Indonesia	
Pro Bono Practices and Opportunities in The Republic Of Ireland	

# Contents

Pro Bono Practices and Opportunities in Northern Ireland	127
Pro Bono Practices and Opportunities in Israel	
Pro Bono Practices and Opportunities in Italy	
Pro Bono Practices and Opportunities in Japan	
Pro Bono Practices and Opportunities in Jordan	
Pro Bono Practices and Opportunities in Kenya	
Pro Bono Practices and Opportunities in Latvia	
Pro Bono Practices and Opportunities in Liechtenstein	
Pro Bono Practices and Opportunities in Lithuania	
Pro Bono Practices and Opportunities in Luxembourg	
Pro Bono Practices and Opportunities in Malta	
Pro Bono Practices and Opportunities in Mexico	
Pro Bono Practices and Opportunities in Montenegro	
Pro Bono Practices and Opportunities in Morocco	
Pro Bono Practices and Opportunities in the Netherlands	
Pro Bono Practices and Opportunities in New Zealand	
Pro Bono Practices and Opportunities in Nigeria	
Pro Bono Practices and Opportunities in Norway	
Pro Bono Practices and Opportunities in Pakistan	
Pro Bono Practices and Opportunities in Paraguay	
Pro Bono Practices and Opportunities in Peru	
Pro Bono Practices and Opportunities in the Philippines	
Pro Bono Practices and Opportunities in Poland	
Pro Bono Practices and Opportunities in Portugal	
Pro Bono Practices and Opportunities in Romania	
Pro Bono Practices and Opportunities in the Russian Federation	
Pro Bono Practices and Opportunities in Saudi Arabia	
Pro Bono Practices and Opportunities in Scotland	
Pro Bono Practices and Opportunities in Serbia	

Pro Bono Practices and Opportunities in Singapore	
Pro Bono Practices and Opportunities in Slovakia	
Pro Bono Practices and Opportunities in Slovenia	
Pro Bono Practices and Opportunities in South Africa	
Pro Bono Practices and Opportunities in Spain	
Pro Bono Practices and Opportunities in Sweden	
Pro Bono Practices and Opportunities in Switzerland	
Pro Bono Practices and Opportunities in Taiwan, R.O.C.	
Pro Bono Practices and Opportunities in Thailand	
Pro Bono Practices and Opportunities in Turkey	
Pro Bono Practices and Opportunities in Uganda	
Pro Bono Practices and Opportunities in Ukraine	
Pro Bono Practices and Opportunities in the United Arab Emirates	
Pro Bono Practices and Opportunities in The United States of America	
Pro Bono Practices and Opportunities in Uruguay	
Pro Bono Practices and Opportunities in Venezuela	
Pro Bono Practices and Opportunities in International Law	
Legal Professional Privilege in the European Union	

# LATHAM&WATKINS



#### FOREWORD

This Survey of *Pro Bono* Practices and Opportunities in 71 Jurisdictions goes back to an initiative of the Pro Bono Institute and Latham & Watkins to make information about global *pro bono* legal services accessible. The first edition of the survey published in 2005 covered 11 jurisdictions, mostly in Europe. The 2012 edition covers over 70 jurisdictions in Europe, Asia and the Pacific region, the Americas, Africa and the Middle East. As the interest in global *pro bono* has grown, and this survey with it, the conversation about global and international *pro bono* has shifted. Whereas the focus just a few years ago was on issues of permissibility and compatibility with the local legal system, the focus today is decidedly practical: *pro bono* has gained in acceptance and the question is how, not whether, *pro bono* representations can be undertaken. The developments have been profound and exciting.

The survey is part of an ongoing effort, shared by many law firms, organizations and corporate legal departments, to promote and stimulate the growth of *pro bono* representation globally and in international settings. Its purpose is to serve as an introductory resource for law firms, private practitioners, in-house lawyers and NGOs seeking to engage or learn more about the culture and provision of *pro bono* in their own or other countries. The chapters describe, for each jurisdiction, what access-to-justice or publicly funded legal aid programs exist, what unmet needs for legal representation remain, what perceptions or culture shape the discussion of *pro bono*, and what professional-conduct laws and rules provide the framework for *pro bono* representation.

In 2012, lawyers from Latham & Watkins' 30 offices around the globe have updated all prior chapters and added chapters covering nearly 30 new jurisdictions. We consider the survey to be a work in progress and welcome your feedback and comments to help us improve future versions (please direct your requests to: Gianni.DeStefano@lw.com). While we have worked, to the extent possible, with local counsel and NGOs to provide information that is both current and accurate, we note that the situation in many of the jurisdictions is fluid, and that errors and omissions are unavoidable. The survey is therefore a work in progress in this sense as well and we invite your comments.

We owe a debt of gratitude to Esther Lardent and Tammy Taylor of the Pro Bono Institute, with whom we have collaborated on this project. The survey is the effort of a large team, involving not only many lawyers at Latham & Watkins, but also local law firms and practitioners, in-house lawyers and NGOs around the globe. We are grateful for their contributions and their time.

August 2012

Gianni De Stefano and Wendy Atrokhov



#### DISCLAIMER

The information contained in this survey is provided for general informational purposes only and does not constitute legal advice. These materials are intended, but not promised or guaranteed, to be current, correct, complete, or up-to-date. Transmission of the information is not intended to create, and the receipt does not constitute, an attorney-client relationship between sender and receiver. No user of this information should act or refrain from acting on the basis of information contained herein without seeking legal advice from counsel in the relevant jurisdiction.

This survey contains many hyperlinks to resources on the Internet. These Internet sites are not under the control of Latham & Watkins and the Pro Bono Institute and Latham & Watkins and the Pro Bono Institute are not responsible for the contents of any Internet site or any link contained on such site. These links are provided as a convenience to help you identify and locate Internet resources that may be of interest, and the inclusion of any hyperlink does not imply recommendation, approval or endorsement by Latham & Watkins or the Pro Bono Institute of the site.



#### THANKS

# The Pro Bono Institute and Latham & Watkins would like to thank the following contributors to this survey:

NGOs: Canadian Bar Association (Canada) – Free Legal Advice Centres (UK) – MANS (Montenegro) – Mizan Law Group for Human Rights (Jordan) – the Peace Institute (Slovenia) – PILnet (China) – ProVene foundation (Uruguay) – Public Interest Alliance Centre (Ireland) – Public Interest Law Clearing House of Victoria (Australia) – Red Pro Bono (Mexico)

Local counsels: AF Mpanga Advocates (Uganda) – ALMT Legal (India) – Altenburger (Switzerland) – Amna Akbar (Pakistan) – Vincent Berger (International) – Bech-Bruun (Denmark) – M. & M. Bomchil (Argentina) – Cariola Diez Perez-Cotapo (Chile) – Delphi (Sweden) – Dittmar & Indrenius (Finland) – Echecopar (Peru) – Ferrere (Paraguay) – Gómez Pinzón Zuleta Abogados (Colombia) – Maria Khan (Pakistan) – Kinstellar (Czech Republic, Slovakia, Serbia) – Luthra & Luthra Law Offices (India) – Mannheimer Swartling (Sweden) – Marxer & Partner Rechtsanwälte (Liechtenstein) – McCarthy Tétrault LLP (Canada) – MMAKS Advocates (Uganda) – Morais Leitão, Galvão Teles, Soares da Silva (Portugal) – Picón Seguros y Servicios Financieros (Uruguay) – Naureen Shah (Pakistan) – Shalakany Law Office (Egypt) – Sharkawy & Sarhan (Egypt) – Sorainen (Latvia) – Stibbe (Belgium, Luxembourg, the Netherlands) – Szecskay Attorneys at Law (Hungary) – Tilleke & Gibbins (Thailand) – Zammit & Associates (Malta)

Inhouse counsels: Hewlett-Packard Company – Merck & Co., Inc.– Microsoft Corporation – Reed Elsevier – Synergenta AG

The staff and attorneys from the 30 offices of Latham & Watkins LLP: Rose Adams - Christian Adams -Aziz Ahmad - Salman Al-Sudairi - Héctor Armengod - Wendy Atrokhov - Marina Babanskaya - Sarah Barr -Saliha Bardasi - Emanuela Basso Petrino - Rebecca Brandt - Jeffrey Boerneke - Vitaly Borishan - Isabel Borrero – Euler Bropleh – Whitney Bruder – Jennifer Casler-Goncalves – Drew Capurro – Claire-Marie Carrega - Gianni De Stefano - Manuel Deo - Antonio Distefano - Ignacio Dominguez - Ekin Akar - Tim Fourteau -Yuan Gao - Davide Gianni - Sarah Greenfield - Alice Guerin - Marc Hansen - Robert Hardy - Carol Hennessey - Kate Hillier - Karen Hodys - James Holloway - Victoria Honey Kachel - Dagmara Jastrzebska -Andrew Jefferson - Shannon Jensen - Angeles Jimenez Garcia-Carriazo - Jimena Jorro - Dhiraj Joseph -Tomohiko Kamimura – Susan Kennedy – Marianna Kinsella – Jörn Kowalewski – Tobias Kruis – Eleanor Sin Chee Lam - Shannon Lankenau - Elizabeth Lawnicki - Alexander Lazar - Jae Lemin - Candy Mak - Erin Matas - Gregor MacDonald - Clemence Mace de Gastines - Melissa Magner - Javier Marti-Fluxa - Deeptha Mathavan - Andrew McCormick - Malorie Medellin - Antonio Morales - Rita Motta - Maree Myerscough -Juan de Navasques - Kevin Nieland - Bairta Ochirova - Ignacio Pallares - Alexandra Panaite - Raluca Papadima – James Parkin – Elitza Petrova – Claudia Piu – Brian Pong – Olga Ponomarenko – Natalie Prescott – Leen Qablawi - Abid Qureshi - Roberto Reyes Gaskin - Federica Richiardone - Howard Rosenblatt - Andrew Samuel - Styliani Sarma - Suzana Sava-Montanari - Kai Schneider - Marlena Schultz - Andreas Scordamaglia-Tousis - Michael Seringhaus - Hendrik Smit - Stephanie Song - Ibrahim Soumrany - Aaron Summer - Wally Suphap - Taiga Takahashi - Marta Talarek - Michael Tardif - Alana Tart - Sylvia Taylor -Blake Tierney - Ioanna Varvoulia - Lilia Vazova - Chris Wood - Suhad Yazbak - Alex Ye - Eric Yiu

Last, but not least, each individual, both in law firms and legal departments, active in *pro bono* representations to address the unmet legal needs of those with limited means.



#### **PRO BONO** PRACTICES AND OPPORTUNITIES IN ENGLAND & WALES

*Pro bono* legal services are of increasing importance for attorneys and law firms within England and Wales. Although such efforts are not yet as widespread or prevalent as in the United States, 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. The estimated value of *pro bono* work provided by private practice attorneys over the 12 months prior to Spring 2010 was £475 million. This was an increase of 19.1 per cent from 2009 and represents approximately 2.3 per cent of the total gross fee income for private practice in 2010.<sup>1</sup> While individual attorneys provide *pro bono* legal services at least in part because of a personal desire to help people, law firms in England and Wales are also becoming increasingly aware of the value their existing and prospective clients may place on a firm's *pro bono* activities.

### I. LEGAL SERVICES AND THE LEGAL PROFESSION IN ENGLAND AND WALES

### A. The Legal Profession

An awareness of the structure of the English legal system is necessary for an understanding of its *pro bono* practices. The legal profession is comprised of two types of lawyers: solicitors and barristers.

Solicitors are regulated and represented by the Law Society and Solicitors Regulatory Authority ("**SRA**") and provide advice on everyday matters, from drafting wills through property conveyancing to completing commercial transactions.<sup>2</sup> Solicitors may work in private practice, in-house or in the public sector. In private practice they may work in firms of all sizes, either specializing in a particular area of law or as full-service practitioners providing advice to individuals, companies, or both. Solicitors may also work in-house in corporations or organizations, including in the charitable and nonprofit sector or within the government. The number of solicitors qualified to work in England and Wales is nearly 118,000, the majority are based in Greater London (43,788), with 20,245 in the City of London.<sup>3</sup> All solicitors are governed by the SRA Practice Framework Rules 2011, which specify professional duties in carrying out all types of work, including *pro bono*.

Barristers, who are governed by the Bar Council, are less likely to provide generalist legal advice and are generally more specialized. They act as and are primarily advocates in litigation, and other predominant functions are to advise clients on the strengths and weaknesses of their cases and act as courtroom advocates. One of the primary differences between solicitors and barristers is the public's access to them. Whereas solicitors have direct contact with the public, barristers are generally reached only through solicitors.

The court system in England and Wales is divided into criminal and civil divisions and is established under Acts of the Parliament of the UK. The subordinate courts include the Magistrates' Court (which hears minor criminal cases), the Family Proceedings Court, the Youth Court and the County Courts (which have a purely civil jurisdiction). There is also a small claims court that has jurisdiction of private disputes in which large amounts of money are not at stake. The routine collection of small debts forms a large portion of the cases brought to small-claims courts, as well as evictions and other disputes between landlords and tenants.

The Crown Court is a criminal court of both original and appellate jurisdiction that in addition handles a limited amount of civil business both at first instance and on appeal. The High Court of Justice functions both as a civil court of first instance and a criminal and civil appellate court for cases from the subordinate courts. It consists of three divisions: the Queen's Bench, the Chancery and the Family divisions.

The Court of Appeal, which deals only with appeals from other courts or tribunals, is divided into two divisions, the Civil Division, which hears appeals from the High Court and County Court and the Criminal Division, which only hears appeals from the Crown Court connected with a trial of indictment. The Supreme Court (formerly the House of Lords) is the highest appeal court.

<sup>&</sup>lt;sup>1</sup> THE LAW SOCIETY, Solicitors' pro bono work: Law society annual individual omnibus survey 2010, Report 5.

<sup>&</sup>lt;sup>2</sup> See Using a Solicitor, THE LAW SOCIETY, available at <u>http://www.lawsociety.org.uk/choosingandusing/usingsolicitor.page</u>.

<sup>&</sup>lt;sup>3</sup> See How many solicitors are there in England and Wales? And who are they?, THE GUARDIAN available at <u>http://www.guardian.co.uk/news/datablog/2011/apr/04/solicitors-number-england-wales-ethnicity</u>.



### B. Legal Aid

One of the reasons why England and Wales have a less robust *pro bono* system than the U.S. is because of the availability of a system of legal aid that uses public funds to help those in need of legal services. Legal aid is available for both civil and criminal matters. If a person is on a low income or receiving benefits, he or she may be eligible for legal aid. He or she can find this out by contacting the nearest citizens' advice bureau or law center (see below for descriptions).

The legal aid system was first established under the Legal Aid and Advice Act of 1949.<sup>4</sup> In 2000, the Legal Services Commission (the "**LSC**") became the body responsible for the administration of legal aid under the Access to Justice Act of 1999. The LSC operates the Community Legal Service ("**CLS**") for civil cases and the Criminal Defence Service ("**CDS**") for criminal cases.<sup>5</sup> On the criminal side, the CDS was established in 2001 and allows for solicitors' firms to offer advice, assistance, and magistrate court representation under contract. In 2001, the LSC also launched the Public Defender Service ("**PDS**"), which directly employs solicitors to provide criminal defense services to the public. Solicitors that do legal aid work can be found on the CLS website.<sup>6</sup> The LSC is responsible for coordinating the resources and funds available for civil legal assistance in accordance with the Funding Code.<sup>7</sup> The Funding Code is a set of rules used to decide what individual cases the LSC will fund. These rules are updated according to changes in the law and policy developments.

In civil cases, legal aid is available for certain disputes with individuals, companies or government departments or agencies, depending on the type of legal problem, a person's income and capital and whether there is a reasonable chance of winning the case and whether it is worth the time and money needed to win. It is unavailable, however for certain tribunals including the Employment and Lands Tribunals, as well as personal injury, negligent damage, conveyancing, wills, defamation and company or partnership law or matters arising out of carrying on a business.<sup>8</sup>

In criminal cases, legal aid might pay a solicitor or barrister to represent someone who has been charged with a crime. In this situation eligibility is determined on the basis of whether the case meets the "Interests of Justice" Test (broadly, how serious are the consequences of conviction) and whether the applicant passes a "means" test based on financial situation.<sup>9</sup>

Changes introduced in 2011 include a revised costs assessment guidance, which is applicable to work governed by the 2010 Standard Civil Contract. The Standard Civil Contract came into force on November 15, 2010, for all nonfamily publicly funded services and as a result providers now need to apply for and be awarded a contract in order to carry out legal aid services on nonfamily matters. This development has therefore decreased the number of professionals able to deliver these services.<sup>10</sup>

Demand for civil legal aid has risen sharply as a result of the current economic crisis.<sup>11</sup> It is therefore becoming increasingly apparent that the public legal aid system does not adequately meet the demand for legal services. Furthermore, legal aid in England and Wales is only available to individuals. Legal

http://www.legalservices.gov.uk/public/can\_i get\_legal\_aid.asp And LEGAL SERVICES COMMISSION, What cases do we fund ? available at http://www.legalservices.gov.uk/civil/funding\_code.asp.

<sup>&</sup>lt;sup>4</sup> See LEGAL SERVICES COMMISSION, The Story of Legal Aid, available at http://www.legalservices.gov.uk/public/the\_story\_of\_legal\_aid.asp.

See LEGAL SERVICES COMMISSION, About our legal aid schemes, available at http://www.legalservices.gov.uk/public/about\_our\_schemes.asp.

<sup>&</sup>lt;sup>6</sup> Available at:

http://www.direct.gov.uk/en/Dl1/Directories/UsefulContactsByCategory/Governmentcitizensandrightscontacts/DG\_195356
See LEGAL SERVICES COMMISSION, Can I get Legal Aid?, available at

<sup>&</sup>lt;sup>8</sup> For more information concerning eligibility and other factors, *see* LEGAL SERVICES COMMISSION: *A Step-by-Step Guide to Legal Aid, or go to* <u>http://www.legalservices.gov.uk/</u>.

<sup>&</sup>lt;sup>9</sup> For more information concerning eligibility and other factors, *see* the DirectGov website at:

http://www.direct.gov.uk/en/Governmentcitizensandrights/GettingLegalAdvice/Legalaidincriminalcases/DG\_196366.
See LEGAL SERVICES COMMISSION, 2010 Standard Civil Contract, available at

http://www.legalservices.gov.uk/civil/2010\_civil\_contract.asp#About.

<sup>&</sup>lt;sup>11</sup> See CITIZENS ADVICE BUREAU Need for civil legal aid has soared during recession says Citizens Advice, available at <u>http://www.citizensadvice.org.uk/index/pressoffice/press\_index/press\_20090710</u>.



advice to charitable organizations must be delivered by the legal profession *pro bono* and on an ad hoc basis.

### II. PRO BONO IN ENGLAND AND WALES: OPPORTUNITIES AND OTHER CONSIDERATIONS

### A. *Pro Bono* Opportunities

Barristers have always provided *pro bono* legal services, yet until 1997 there was no organization specifically focused on encouraging and structuring *pro bono* activities among solicitors. In 1997, a group of solicitors founded the Solicitors Pro Bono Group ("**SPBG**"). SPBG is a registered charity whose mission is "to support, promote and encourage a commitment to *pro bono* across the solicitors' profession."<sup>12</sup> SPBG does not take on *pro bono* cases itself but instead acts as a resource for those seeking *pro bono* services or seeking to become involved in *pro bono* activities.

### 1. LawWorks

LawWorks is the operating name of SPBG. LawWorks was originally a joint operation between SPBG and Law Centres (see below for details). The aim was to connect those solicitors wanting to provide *pro bono* legal services with clinics or agencies offering such services.<sup>13</sup> LawWorks also runs the LawWorks for Community Groups project that acts as a direct clearinghouse for legal projects, matching those in need of legal services (generally nonprofit organizations) with law firms or larger companies' in-house legal departments.<sup>14</sup> Members of the LawWorks for Community Groups project provide advice on issues relating to matters as diverse as property, charity, corporate matters, finance, employment, intellectual property, and information technology. Other projects run by LawWorks include LawWorks Individuals. This offers three types of free services: legal advice clinics, mediation and casework assistance. LawWorks Mediation provides mediation services for individuals who are clients of an advice agency, i.e., Law Center, CABx, or a member of the Bar *Pro Bono* Unit, and the other party to the dispute.<sup>15</sup>

# 2. <u>Initiatives for Students</u>

Students in England and Wales are able to get involved with *pro bono* work through universities, law schools and organizations such as LawWorks. Several law schools and universities have established *pro bono* centers and clinics where students have the opportunity to participate directly in *pro bono* work, while being supervised by qualified solicitors and/or barristers. BPP Law School is one example, having set up five centers within England and Wales providing legal information, advice and assistance to members of the public.<sup>16</sup>

LawWorks' student initiative provides information for students on *pro bono* opportunities and seeks to encourage involvement by offering guidance on *pro bono* projects.<sup>17</sup> Several English law firms assist in managing this initiative. Other organizations, such as FRU, also provide students with *pro bono* opportunities (see below for more details).

#### 3. Bar Pro Bono Unit and Bar Council Programs

The Bar Pro Bono Unit ("**PBU**") is a registered charity, established in 1996 to provide *pro bono* legal advice and representation to individuals who are unable to obtain it privately or through legal aid. There are over 2,000 barristers who offer *pro bono* services through PBU, encompassing virtually every area of the law. Besides advising on the law, PBU provides representation in any court or tribunal in England or Wales and assists with mediation. In determining which cases to accept, PBU assesses whether the matter requires a barrister (who may act without a solicitor where none is necessary), the legal merits of the case, whether the

<sup>&</sup>lt;sup>12</sup> LAWWORKS SOLICITORS PRO BONO GROUP, Introduction, available at <u>http://www.lawworks.org.uk/</u>.

<sup>&</sup>lt;sup>13</sup> LAWWORKS SOLICITORS PRO BONO GROUP, Law Works Clinics, available at http://www.lawworks.org.uk/index.php?cID=10296.

<sup>&</sup>lt;sup>14</sup> LAWWORKS SOLICITORS PRO BONO GROUP, LawWorks for Community Groups, available at <u>http://lawworks.org.uk/community-groups</u>.

<sup>&</sup>lt;sup>15</sup> LAWWORKS SOLICITORS PRO BONO GROUP, Mediation Introduction, available at <u>http://lawworks.org.uk/lw\_mediation</u>.

<sup>&</sup>lt;sup>16</sup> Further information is *available at <u>http://www.bpp.com/bpp-university-college/l/pro-bono</u>.* 

<sup>&</sup>lt;sup>17</sup> Further information is *available at* <u>http://www.lawworks.org.uk/students.</u>



applicant can reasonably obtain legal services elsewhere (such as legal aid or paying privately), and whether the work will take longer than three days.<sup>18</sup>

Barristers wishing to volunteer for PBU must be willing to assist with cases for a minimum of three days per year, including preparation time for hearings on an individual piece of work within a case. The Unit provides assistance on a step-by-step basis, however, and therefore it may help with several pieces of work within a case that together add up to more than the three-day total. Additionally, PBU asks that barristers make the same effort and apply the same level of commitment to its *pro bono* cases as to their paid work.<sup>19</sup> PBU has also developed a panel of firms that provide solicitors' services where needed. For professional, insurance and practical reasons, solicitor at that firm is permitted to join the Unit's panel. However, due to the nature of the cases taken on by PBU, solicitors are rarely called upon. PBU is funded solely by donations and does not require a membership fee.<sup>20</sup>

In addition, the Bar Council has a registered charity, named Bar in the Community ("**BIC**"). BIC encourages volunteering by barristers, other legal professionals and law students; under this initiative volunteers serve on management committees of various voluntary organizations. Barristers use the skills they have learned in the profession to give back to the community in a managerial role, rather than providing legal advice per se.

#### 4. <u>Free Representation Unit</u>

The Free Representation Unit ("**FRU**") is a registered charity providing *pro bono* legal advice. FRU's volunteers are law students and legal professionals in the early stages of their career (including pupil barristers, trainee solicitors and newly qualified lawyers). All will be trained by FRU and cannot take on cases until they have the appropriate experience. FRU is based in London and now also has a pilot scheme running in Nottingham, with a view to rolling the scheme out nationally.

#### 5. <u>National Pro Bono Centre</u>

Since 2010, the National Pro Bono Centre has housed LawWorks, the Bar Pro Bono Unit and ILEX Pro Bono (the *pro bono* organization staffed by legal executives). It now also provided space for the Access to Justice Foundation, London Legal Support Trust and i-ProBono (*pro bono* charities). The Centre therefore offers end-to-end service for clients through *pro bono* assistance and referral to a network of partner agencies.<sup>21</sup>

In 2011, the first legal executives worked with barrister colleagues through the Joint ILEX Pro Bono and Bar Pro Bono Unit (JIB) scheme. The Centre is a valuable resource for lawyers who are able to refer clients they are unable to directly assist, rather than leaving them with nowhere to turn. For *pro bono* charities, the Centre offers meeting facilities in the heart of the legal community free of charge.

#### B. Barriers To *Pro Bono* Work And Other Considerations

#### 1. <u>Barriers to Pro Bono Work</u>

As well as the fees and registration required for many *pro bono* societies, there are also practical barriers for solicitors engaging in *pro bono* work. These include a lack of time when also trying to balance fee-paying client work and the pressure to meet the hourly billing targets of their firm. Some firms however, include *pro bono* hours of work within these billing targets, thus encouraging their lawyers to participate.

<sup>&</sup>lt;sup>18</sup> See BAR PRO BONO UNIT, Advice Agencies & Solicitors: Applying for help, available at <u>http://www.barprobono.org.uk/?cID=6</u>.

<sup>&</sup>lt;sup>19</sup> See PRO BONO UNIT at: <u>http://www.barprobono.org.uk/criteria.html</u>.

<sup>&</sup>lt;sup>20</sup> See PRO BONO UNIT, How to Help available at <u>http://www.barprobono.org.uk/donations.html</u>.

<sup>&</sup>lt;sup>21</sup> See NATIONAL PRO BONO CENTRE, Yearbook of England and Wales 2011, available at <u>http://probonouk.net/yearbook2011.pdf</u>.



Another issue that may be encountered by solicitors who volunteer to carry out *pro bono* work is that the cases referred to them may not be in their area of experience. For example, corporate law firms (who house a great many of the profession's solicitors) may not necessarily have lawyers experienced in dealing with individuals as clients, or in the types of matters that affect individuals, including employment and housing/tenancy issues.

### 2. <u>VAT on *Pro Bono* Work</u>

In England and Wales, there is no minimum fee level that lawyers are required to charge, therefore services may be provided completely free of any charges to the client. VAT must be charged for work, done within the formal Legal Aid scheme, but not for *pro bono* work, so long as no fees are charged to the client.

#### 3. <u>In-house Lawyers</u>

Lawyers practicing in-house are also able to participate in *pro bono* work. They are governed, as are other solicitors, by the SRA Practice Framework Rules 2011. As an in-house lawyer, however, there are also other factors to be considered, including the fact that in-house lawyers are barred from acting for clients other than their employer. There is an exception in the rules for *pro bono* work, *provided that* the work is covered by indemnity insurance and that fees are not charged. Lawyers must also not carry out a regulated activity.

The Legal Services Act also applies to in-house *pro bono* practice, restricting the practice of certain reserved activities, including rights of audience, conducting litigation, reserved instrument activities, probate activities, notary activities, and the administration of oaths. There are some exemptions to these restrictions, but advice relating to these would be best sought from the SRA.

In-house legal teams may opt to join LawWorks, as LawWorks will provide professional indemnity insurance coverage, enabling in-house lawyers to work on LawWorks programmes. Companies may also set up internal *pro bono* programmes. In such case, however, it is important to consider issues such as regulatory and compliance requirements, costs agreements (strictly controlled for *pro bono* under s. 194 Legal Services Act 2007), ensuring that correspondence with clients is tailored correctly and with appropriate letterhead and compliance with the SRA accounting rules, which must be observed when dealing with client money.<sup>22</sup>

# C. *Pro Bono* Resources

# 1. <u>Advice Agencies</u>

Within England and Wales there is a national network of advice agencies staffed primarily by volunteers. The two most prominent are the Citizens Advice Bureau Service (the "**CABx**") and the Law Centres Federation. CABx is a charity that provides free advice to the public on topics that include legal matters. Advisers help clients fill out forms, write letters, negotiate with creditors, and also represent them in courts or tribunals.<sup>23</sup> CABx's bureaux, located throughout England and Wales, are able to give advice to the public on where to obtain legal services and may often provide legal advice themselves. CABx is funded mainly by government and local authority grants, with contributions from corporations and charitable trusts.

The Law Centres Federation is the governing body for the Law Centres, and its mission is to promote publicly funded legal services, mainly through the Law Centres.<sup>24</sup> There are 56 Law Centres in England, Wales and Northern Ireland, which provide free legal advice to needy

<sup>&</sup>lt;sup>22</sup> See DLA PIPER, The England and Wales in-house Legal Counsel Pro Bono Guide, available at http://www.dlapiper.com/global/publications/Detail.aspx?pub=6996&RSS=true.

<sup>&</sup>lt;sup>23</sup> CITIZENS ADVICE BUREAU, About Us Citizens Advice Service, available at http://www.citizensadvice.org.uk/index/aboutus.htm.

<sup>&</sup>lt;sup>24</sup> The Law Centres Federation is a registered charity and a Company Limited by Guarantee and registered in England and Wales. See LAW CENTRES FEDERATION, What Does the Law Centres Federation Do?, available at <u>http://www.lawcentres.org.uk/lawcentres/detail/what-do-law-centres-do/</u>.



individuals within each centre's coverage area. These services are targeted at the poor and most disadvantaged members of society. The Law Centres give legal advice on multiple subjects, provide education and information on the law and individual rights, and lobby for improvements to existing laws. Funding for the Law Centres comes mainly from the LSC, but to satisfy increased demand additional funding has been secured from other sources.

### 2. Bar Pro Bono Unit and Bar Council Programs

PBU, as discussed above, enables barristers to provide *pro bono* legal advice and representation to individuals who are unable to obtain it privately or through legal aid.

### 3. <u>Free Representation Unit</u>

FRU is staffed by volunteers who tend to be junior lawyers, who possess the minimum qualifications of being an LLB graduate, an LLM student, or a GDL student. It prepares cases and provides representation at tribunals in matters such as employment, social security and criminal injury compensation. FRU is based chiefly in Greater London. Services are provided to those who cannot obtain them privately or through legal aid.<sup>25</sup> FRU was established in 1972 and continues to play a leading role in the *pro bono* community. FRU can only be accessed by members of the public through a referral by an agency such as Citizens Advice Bureau, Law Centres, or firms of solicitors. FRU provided representation for 950 clients in the year to March 31, 2011, with some 479 volunteers involved.<sup>26</sup>

#### 4. <u>Business in the Community</u>

Business in the Community ("**BITC**") is a business-led charity with over 850 member companies with a combined workforce of 17.8 million employed worldwide, including many of the top London law firms. In addition, a 10,700 other companies are engaged through BITC's programs and campaigns. BITC aims to encourage businesses to make a positive contribution to society to help ensure a sustainable future for people and planet.<sup>27</sup> This is generally not a forum for providing free legal services but focuses on ancillary support in other areas. Law firms often get involved in ways other than providing legal advice, such as offering mentoring services, helping out in schools or community centers or partaking in local urban regeneration programs. ProHelp, the employee volunteering section of BITC, is "a national network of over 400 professional firms committed to making a difference in their local community by providing free advice and professional support." The programs offered by ProHelp afford member firms' employees the opportunity to aid those in need within their community as well as to gain valuable experience.

#### 5. <u>Other Organizations and Opportunities</u>

There are also other organizations that offer *pro bono* services in different areas or on a smaller scale. For example, Liberty (also known as the National Council for Civil Liberties) is an organization focusing on human rights and civil liberties, and has been active in these areas since 1934. Liberty's activities include lobbying Parliament, challenging unjust laws through test cases at the national and European Union level, public campaigning, undertaking research, writing reports on civil liberties and human rights issues, and providing advice and information.

Information regarding these types of organizations and other *pro bono* opportunities can be found on the website "ProBonoUK.net," launched in May 2002 by the Attorney General's Pro Bono Committee. ProBonoUK.net Limited was formed in 2003 as a registered charity to establish, run and develop the website. The members of the Attorney General's Pro Bono Committee established the website at the request of various *pro bono* groups in order to coordinate *pro bono* activities and provide a resource for those interested in *pro bono* work.<sup>28</sup>

<sup>&</sup>lt;sup>25</sup> For further information *see*: <u>http://www.thefru.org.uk/</u>.

<sup>&</sup>lt;sup>26</sup> See FRU's Annual Report 2011, available at <u>http://www.thefru.org.uk/annual-reports</u>.

<sup>&</sup>lt;sup>27</sup> BITC, About, available at <u>http://www.bitc.org.uk/about\_bitc/index.html</u>.

<sup>&</sup>lt;sup>28</sup> Further information is *available at <u>http://www.probonouk.net/index.php</u>?id=about.* 



### III. CONCLUSION

Pro bono legal work continues to gain importance in England and Wales. In 2007, in acknowledgment of National Pro Bono Week, both Prime Minister Gordon Brown and Prince Charles HRH the Prince of Wales sent messages of support and encouragement to the legal profession and praised those who give their time to *pro bono* activities. More recently, high profile *pro bono* work has involved a Riot Help *pro bono* helpline, established to support victims of the riots and the appointment of a Pro Bono Panel for the 2012 Olympics.

Many organizations are expanding their efforts to promote *pro bono* access, thereby creating opportunities for both individuals and firms to become involved. It is evident that the amount of *pro bono* work undertaken within the English legal structure has grown tremendously in previous years and will continue to grow in the coming years. National Pro Bono Week, a week celebrating free legal advice and representation by solicitors barristers and legal executives, celebrated its tenth year in 2011.

July 2012

Pro Bono Practices and Opportunities in England & 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.