

Pro bono work is in greater demand than ever, and that's for lawyers as well as clients

Working for free is more than charity. It's an integral part of being a solicitor, writes Neil Rose

IN May, more than 3,000 lawyers will hit the streets of London with their hands, at least metaphorically, outstretched. Happily the 10km walk around the capital is not a march of redundant City solicitors down on their luck, but rather the annual London Legal sponsored walk, which last year raised a record £310,000 for legal advice charities. It is organised by the London Legal Support Trust, a body that is now integral to a major new pro bono initiative organised by the legal profession – the Access to Justice Foundation.

The foundation is backed by the Law Society, Bar Council, Institute of Legal Executives and Advice Services Alliance, and chaired by former Attorney-General Lord Goldsmith QC. Its purpose is to distribute a new stream of income for pro bono legal advice services, accept other donations and take a strategic view of need when handing out the money. This will mainly be through a network of regional legal support trusts, like the one in London, which in turn support local groups, as well as to national pro bono charities and specific projects.

The new stream of income is courtesy of section 194 of the 2007 Legal Services Act, which came into force last October. Where the successful party in litigation is represented on a pro bono basis, the court can now make a costs order against the loser, and that money is paid to the foundation.

Up to this point, no such order could be made because of the legal principle that means a losing party's exposure to paying the other side's costs is limited to the winner's own exposure to his lawyer. So, if the lawyer was acting for nothing, defendants effectively had a free ride, and far less incentive to settle.

DRIVING FORCE

Robin Knowles QC, of Gray's Inn chambers 3-4 South Square, was one of the driving forces behind the foundation. He says there have so far been a "couple of modest receipts" from court orders, as well as some straight donations too. "This is a good sign because it shows the profession isn't looking at the foundation as just a section 194 body," he says. Knowles highlights three particular benefits from the creation of the foundation: it underlines the importance of a strategic approach to pro bono funding; it has encouraged the creation of the regional trusts; and it is "an opportunity for an utterly respected focal point for the collection and distribution of resources. That's why I'm encouraged that we're already seeing donations".

Law Society President Paul Marsh says he hopes the foundation will bring "some additional form and structure" to pro bono provision. But equally it should not be forgotten how much the profession already does. Law Society research in 2007 estimated that solicitors provide £338m worth of pro bono work a year, he notes.

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Lawyers are keen to volunteer for pro bono work.

Picture: GETTY

Michael Napier, London-based senior partner of national firm Irwin Mitchell and the Attorney-General's pro bono envoy, says: "The foundation and trusts will offer a further strategic dimension to the magnificent contribution of the legal professions in giving free legal advice to those who cannot pay. In time better access to justice – less unmet legal need – will be the result. The foundation will also be there as the natural destination for other charitable donations in the cause of access to justice. But it must always be remembered that, just like pro bono itself, the foundation will never be a substitute for legal aid."

This last point is all the more critical right now. Elsha Butler, global pro bono manager at magic circle firm Linklaters, says its community partners are reporting an upsurge in demand – just at the time their legal aid contracts are being restructured and their income going down.

This is likely to lead to an even greater call on the large pro bono and other schemes run by law firms, such as sending lawyers to free legal advice clinics and partnering with community groups. But with redundancies sweeping across the Square Mile, lawyers are arguably going to be more concerned with finding new clients and keeping busy than volunteering.

This fear has prompted the Law Centres Federation, whose members often partner with law firms, to appeal

to major City practices to maintain their corporate social responsibility and pro bono programmes, despite the need to cut costs. "We know it is hard to ask firms to maintain a non-profit element when people are being made redundant," says federation director Julie Bishop, "but the need for firms to support their communities during the hard times ahead will be even greater."

CURRENT CLIMATE

Knowles agrees. "My hope is that even parts of the profession suffering in the current climate will see engagement in pro bono as important in keeping firms and chambers in a strong and collegiate place. Pro bono has that potential of being very important to morale and team playing, and that's a particular plus at the moment."

Unsurprisingly, no firm is saying that its schemes will be reduced. Kathryn Ludlow, newly appointed as Linklaters' first global pro bono partner, says people "are committed to doing this work" and will find the time to do it. As an example, Elsha Butler points to the firm's involvement in Project Shoreditch, in which it cooperates with clients UBS and Deutsche Bank among others to support a variety of initiatives to support and develop the local community in Hackney.

Tom Dunn, Clifford Chance's pro bono manager, says he has not seen any drop off in the hundreds of volunteers for advice

centre work; in fact, "as an indication of our commitment", the firm started new advice sessions on the Isle of Dogs only in November. Dunn explains that the firm prioritises projects which improve access to justice, access to finance or education. The latter tends to be community work, such as mentoring local school pupils, while the first two have more legal content. The finance work matches the firm's focus on that area of law, and as one example Dunn says it is talking to credit unions and others about ways it can support the UK microfinance movement.

NOT-FOR-PROFIT

He is particularly proud of Clifford Chance's support for Law for All, which provides not-for-profit social welfare law advice in west London and East Anglia. The firm seconds 20 trainee solicitors a year to the charity, takes pro bono referrals and provides business support.

The advantages of pro bono work for volunteer lawyers are clear. Beyond the moral level of it being the right thing to do, for younger solicitors in particular it helps develop their skills, gives them greater responsibility than in their day-to-day work and provides more client contact. For management, "at a high level it is right for large corporate law firms to give something back to the communities where they are based", says Dunn. But equally there is greater pressure on advisers to align themselves with their clients' corporate responsibility commitments. Put simply, it's good business. However, this is not just opportunism, says Paul Marsh. "I don't think firms would be approaching it in the skilful way they do if they didn't think it was the right thing to do."

This has also eroded the reticence many law firms used to have about publicising their pro bono work. About 10 years ago, one large practice sent journalists a report outlining the value of its pro bono work, but then asked them not to print anything about it. Now many firms publish glossy annual reports. "A lot of clients want to know what we're doing," says Kathryn Ludlow. "It's not about blowing our own trumpet." Marsh adds: "Circumstances change. The public is now looking with a very critical eye at lawyers, and so it is now perfectly appropriate that we puff out our chest and say what good things we do."

It may help if the very words "pro bono" were changed. They mean little to the public and sound more like a make of dog food. "It would be hard not to come up with a better name," admits Dunn. The Institute of Legal Executives held a competition for a plain English version some years ago, judged by the then Lord Chief Justice Lord Woolf. The winner was "law for free" – but in a profession where simple language is not always to the fore, it has not taken off.

PRO BONO | RECENT WORK

- Lovells' pro bono team spent 19,000 hours winning a High Court case for a rape claimant whose alleged attacker, whose conviction was quashed, tried to win £300,000 compensation from her.

- Mishcon de Reya, Field Fisher Waterhouse (FFW) and Reed Smith recently launched the pro bono Pink Law Legal Advice Centre, working with lesbian, gay, bisexual and transgender people.