

SPEECH AT THE FORUM OF REGIONAL LEGAL

SUPPORT TRUSTS

Michael Napier, Attorney General's Pro Bono Envoy

1st December 2009

On behalf of the Attorney General and the Solicitor General who are both unable to be here due to Parliamentary business and therefore send their apologies, may I thank you all for coming to today's Forum for Regional Legal Support Trusts and to this reception that concludes the day's deliberations by launching the national network of RLSTs. As I am sure you know the Law Officers are very supportive of the Access to Justice Foundation and the Legal Support Trusts and, as the Attorney General's Pro Bono Envoy, I am delighted to be the stand in for delivering on the Attorney's behalf these remarks this evening. I know that many people have travelled a long way to attend today's Forum - a particular welcome to our Scottish guests, and thanks also to those delegates who have already headed back for trains.

Last October (in fact on 7 October, a day of major crisis in the banking sector) I was privileged, alongside Lord Goldsmith and Baroness Scotland to be on the platform at the launch of the Access to Justice Foundation in the splendid surroundings of our generous hosts, Coutts Bank. The launch of the Foundation, as the recipient of monies recovered under The Legal Services Act by way of S194 Pro Bono Costs Orders, was a world first in establishing a statutory method of strategically distributing money via the Foundation to bodies that support those in need of free legal help. Now that the Foundation has been running for just over a year, the hope is that gradually more and more money will be raised to be channelled to the Foundation to support even more pro bono activity.

Of course S194 orders also achieve the objective of levelling the costs playing field in pro bono cases. The bold initiative to establish S194 orders, achieved with the help of the MoJ and Parliament that declared the Foundation as the charity to receive S194 monies, was developed under the aegis of the Attorney General's National Pro Bono Coordinating Committee, and owes much to Lord Goldsmith

as former Attorney General and to Baroness Scotland, as well as to the S194 and Foundation working party under the Chairmanship of Robin Knowles QC. It is commendable indeed that today, one year and a bit later, the new ability to obtain S194 orders and the establishment of the Foundation, together represent a combined project of the entire legal profession - solicitors, barristers and legal executives, linking up and working with the not for profit and voluntary legal advice sector that is the financial beneficiary, helping it to support current legal need.

But S194 and the Foundation are only part of the whole story, because integral to the several strands that have been pulled together to make these developments so important and exciting, is the nationwide development of the Regional Legal Support Trusts that you have been discussing today - modelled of course on the very successful London Legal Support Trust.

As we know, the Trusts organise events to raise additional money to support the organisations that provide free of charge legal assistance in their region. This year we have seen a remarkable number of 12 legal walks across England and Wales, and there will be many more in 2010, including Bob Nightingale's latest challenge of a 40 mile London walk! We very much hope that each Trust succeeds in establishing their walks as a key part of the legal calendar, so that in addition to raising much needed funds, there is a high profile opportunity to show the legal profession's commitment to pro bono activity, and in turn to promote access to justice.

Establishing and running the Legal Support Trusts as charitable organisations requires a lot of enthusiastic, committed and dedicated people. To all those here from the Regional Trusts I'd like to express huge appreciation for your willingness to come forward and take on this important task - and when you attend your next individual Trustees' meetings, please pass on our gratitude to your fellow Trustees.

With National Pro Bono Week having taken place only 3 weeks ago supported by the legal profession via the Law Society, the Bar Council and the Institute of Legal Executives, it is worth

remembering that this year the week included a strong message of support to pro bono workers in the Regions. The Regional Trusts undoubtedly have an important part to play in raising awareness of local and regional pro bono activities with the help of LawWorks, the Bar Pro Bono Unit and the ILEX Pro Bono Forum as national pro bono organisations. Now, with the existence of the Foundation in conjunction with the Regional Trusts you will be able to support pro bono activities throughout England and Wales by the all important ingredient of money. And as the Trusts grow and flourish they will have a crucial role in bringing together lawyers, law firms, chambers and the advice sector, to assist the communication and coordination that is necessary to maximise pro bono efforts nationally. We hope that the issues you have discussed at today's Forum will assist the development of this nationwide initiative. We hope in particular that local and regional firms will be as enthusiastic about supporting their Trusts as London firms have been.

Looking forward, we also need to promote greater awareness of S194 and the ability to obtain Pro Bono Costs Orders and to develop other methods of streaming additional funds into the AJF. Already we have seen a S194 order for £20,000. Already the AJF has been able to award modest grants at the end of its first year. And looking even further forward it is interesting indeed to note that in the Financial Services Bill recently announced in the Queen's speech are draft provisions for 'Collective Proceedings Orders' in respect of financial services claims. Clauses 18 onwards of the Bill allow for collective proceeding to be "opt in" or "opt out". The significance of this provision is that, as the Civil Justice Council pointed out in its Report on collective redress to Government in 2008, in opt out proceedings where damages are aggregated this may leave behind unclaimed residual funds that need a charitable home; or as the CJC said in its report:

"Unallocated damages from an aggregate award should be distributed by a trustee of the award according to general trust law principles. In appropriate cases such a "cy pres" doctrine could be made to a foundation or trust."

A footnote to the CJC report suggested that such a foundation or trust might be the Access to Justice Foundation. Well, if these provisions become law via the Financial Services Bill I wonder whether we will discover an important new stream of funds for the Foundation from unallocated damages in collective proceedings looking for a charitable home?

On that cautiously optimistic note, and following your meeting today with some of the Trustees of the Foundation, may I wish the Foundation and the Legal Support Trusts a very successful next 12 months in this new and exciting area of activity that enables the gathering and distribution of funds for worthy pro bono causes.

Michael Napier
Pro Bono Envoy
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