

The Future Advice Programme

Access to justice is an essential part of a free and fair society. This means that citizens, above all those facing disadvantage and discrimination, should be able to assert their rights and to hold others to account. Not-for-profit legal advice services, established on the principle that access to justice should not hinge on one's financial resources, therefore play an indispensable role at the critical juncture between individuals and the public and private bodies with which they interact. Yet these services are under increasing pressure, pummelled by rising demand, far-reaching cuts in public funding, the impacts of welfare reform, and increased competition for resources. The resulting situation has been characterised by some as a "perfect storm".

The Future Advice programme was established by the Baring Foundation in 2012 to help the legal advice sector negotiate this increasingly difficult environment and to place it on more sustainable footings. The programme is split into three strands: the Providers Fund, in collaboration with Comic Relief and The Diana, Princess of Wales Memorial Fund, to support innovative organisations testing promising new ideas, the Strategic Fund to help create a more supportive policy and funding landscape for advice, and the Learning Programme, in collaboration with Unbound Philanthropy, to help capture and spread the lessons widely.

This bulletin forms part of a series intended to serve as action papers for the Future Advice programme. Each bulletin offers an outline of the major themes and innovations that are currently being explored by grantees in the Providers Fund. We hope that they will offer other practitioners a starting point for new projects, guidance on how they might replicate or adapt existing models to fit their own organisation, and highlight potential pitfalls and challenges that will need to be taken into consideration.

Pro bono in practice - what's the idea?

Pro bono legal advice grew out of the 'Poor Man's Lawyer' services that began in the East End of London in the late 19th century. In 2013, the UK is facing a new 'crisis of poverty' and the free legal advice sector is struggling to cope with unprecedented levels of demand for its services. It is clear that something needs to be done but just how much can be achieved with the goodwill of professional volunteers?

The Law Society estimates that the financial value of pro bono work conducted by private practice solicitors during 2011-12 was £511 million, equivalent to approximately 2.6 per cent of the total turnover generated by solicitor firms.ⁱⁱ Looking at these figures, it is hardly surprising that in certain sectors, pro bono services are being regarded as new oases of advice in the growing 'advice deserts' across England and Wales. But therein lies the problem. Pro bono plays an important role in the delivery of advice but pro bono lawyers cannot replace specialist social welfare lawyers. Most volunteers do not have the detailed knowledge or the time to become specialist advisers in addition to their existing activities (usually paid employment). Where they can add value is by providing additional resource to the specialists to free up their time for complex casework; or by providing discrete elements of specialist advice in defined areas, such as case preparation, Tribunal advocacy and advice to the agencies themselves. Pro bono advice also relies heavily on the existing network of specialist agencies as a channel for delivery. If the advice sector infrastructure crumbles due to lack of funding, it follows that the volume of pro bono work currently undertaken will also decline.

Pro bono legal services are provided across the legal profession by lawyers working in law firms of all sizes (ranging from the structured pro bono programmes of large firms to the

individual contributions of sole practitioners), barristers, in-house corporate lawyers, government lawyers and law students. The best practice guidelines set out in the Joint Pro Bono Protocol for Legal Work state that pro bono legal work is:

- legal advice or representation provided by lawyers in the public interest including to individuals, charities and community groups who cannot afford to pay for that advice or representation and where public and alternative means of funding are not available.
- free to the client, without payment to the

lawyer or law firm (regardless of the outcome) and provided voluntarily either by the lawyer or his or her firm.

- always only an adjunct to, and not a substitute for, a proper system of publicly funded legal servicesⁱⁱⁱ

This bulletin describes how a number of organisations are using pro bono support, including organisations that are part of the Future Advice programme. It is hoped that the projects will inspire others to adapt a pro bono model that suits their organisation and discover for themselves how pro bono works in practice.

What are the examples?

Avon and Bristol Law Centre

Avon and Bristol Law Centre is working in partnership with Gloucester Law Centre and Wiltshire Law Centre to develop and implement a south west regional advice structure. This is now known as the South West Law Centres project. Part of its work will be to develop sustainable sources of income and also relationships with key partners to tender jointly for contracts or apply for grants. The South West Law Centres project received pro bono advice at the outset from a partner at a Bristol law firm who advised on the best charitable structure for the project.

Independent of the South West Law Centres project, Avon and Bristol Law Centre has a long history of working with pro bono volunteers. For over 20 years, solicitors from Bristol's private law firms have provided free legal advice in the areas of family, employment, personal injury and civil litigation, through the Law Centre's *Volunteer Solicitor Scheme*, complementing the specialist advice offered by the Law Centre.

The Law Centre also partners with Bristol Law School at the University of the West of England. The Legal Advice Support project was set up to reduce demand on the Law Centre when changes to the Employment and Support Allowance (ESA) benefit were introduced in 2012. The project provides an ideal training opportunity for ten committed law students each year, who receive training and supervision from welfare benefits specialists at Avon and Bristol Law Centre. The students then go on to represent clients bringing ESA appeals at Tribunal.

Coventry Law Centre

Coventry Law Centre has worked closely with the University of Warwick School of Law and the Centre for Human Rights in Practice for five years. Coventry Law Centre offers students the opportunity to volunteer within the immigration and asylum team at the Law Centre. Their role is to work under the guidance of the advisers in the team to undertake work on cases and to see clients. This gives the students an excellent opportunity to develop their interviewing skills and to learn about immigration and asylum law in practice. They may also help prepare cases to go to Tribunal or court. The law students undergo a rigorous selection process overseen by Warwick Law School and must commit to at least one, 3.5 hour session a week for the full academic year.

The Law Centre is also about to enter into a new pro bono partnership with law students at Coventry University. The project is intended to create capacity to negotiate with decision makers at the Department for Work and Pensions (DWP) to try and settle

more cases before they go to Tribunal. Students will review case files with welfare benefits advisers and write submissions to the DWP to argue the client's case. Students will also work with clients in small groups to help them to increase their points on the points-based system. Students will also accompany clients to Tribunal to give support, explain the outcome of the hearing and recommend next steps.

Manuel Bravo Project

Manuel Bravo Project (MBP) is a charitable organisation which assists asylum seekers in the Leeds area who are unable to find adequate legal representation. The Project is volunteer-based with barristers, solicitors, law students and other individuals volunteering their time. In addition, MBP also employs three part time OISC registered caseworkers (see bulletin no.4 for a discussion of OISC regulation and volunteers). Pro bono volunteers interview and advise clients on the merits of their case. They then prepare letters, witness statements, skeleton arguments and court bundles for the Home Office under the supervision of an OISC registered caseworker. In 2011, 26 clients were helped to prepare a case compared with 38 clients in 2012. In 2012, 10 per cent of clients were granted leave to remain, or granted legal aid when they had previously been refused it.

The Providers Fund grant to MBP is in two parts: first, to hire a Legal Development Officer to recruit and support pro bono teams from law firms; and second, to assess the feasibility of replicating MBP in two other cities in the UK.

Toynbee Hall

Toynbee Hall is a community organisation that pioneers ways to reduce poverty and disadvantage in the East End of London. It gives some of the country's most deprived communities a voice, providing access to free advice and support services and working with them to tackle social injustice. Toynbee Hall's Free Legal Advice Centre (FLAC), founded in 1898 as the 'Poor Man's Lawyer', is the oldest surviving Free Legal Advice Centre in the world. In terms of a sustainable pro bono model, FLAC is exceptional.

Toynbee Hall benefits from a settlement, a rich heritage founded on volunteering and a strong reputation for its work within the local community in the East End of London and nationally. It works hard to maintain and develop all these assets through innovative projects and collaborations and a professional approach to service delivery. It has had a strong pro bono partnership with City law firm, Allen & Overy LLP, for over five years. The relationship includes a commitment to send volunteer solicitors to FLAC on a weekly basis to advise on housing and consumer law issues. Allen & Overy LLP also gives Toynbee Hall pro bono advice on a range of commercial legal matters to help the organisation get the best financial return on its assets. These profits help to pay for frontline advice services.

The following organisations are not Future Advice grantees, but they are strong pro bono models which fit well within the context of this bulletin:

Muscular Dystrophy Campaign

Muscular Dystrophy Campaign (MDC) set up a pilot advocacy service in April 2011 to help individuals and families challenge local authority funding decisions, inadequate benefits provision, and discrimination from employers or public bodies. It operated on three levels: answering queries about benefits entitlements; active involvement in complex negotiations or disputes, which can last anything up to ten months; and specialist legal assistance, provided in partnership with the law firm Hogan Lovells since July 2011. MDC also developed a series of factsheets and template letters to help some people develop the advocacy skills to self-represent. Since the launch of the service in 2011, the Advocacy team has successfully supported 223 people, including taking on 123 cases, 64 per cent of which were successfully closed.

South West London Law Centres

South West London Law Centres (SWLLC) provides specialist legal advice and assistance covering Wandsworth, Merton, Croydon, Kingston-upon-Thames, Richmond-upon-Thames and Sutton in South West London. The Law Centre undertakes legal casework

and representation in the social welfare law fields of debt, employment, immigration, housing and welfare benefits. It also has a long history of pro bono relationships with the first volunteer starting over 35 years ago. It currently runs a pro bono clinic for initial advice and assistance five evenings a week and co-ordinates around 250 pro bono volunteers annually. Some of these are casework volunteers who give their time in the day to assist Law Centre solicitors with case preparation. SWLLC has a well-established panel of law firms sending pro bono volunteers to its clinics, 16 firms in total, from small local firms to large City firms. Pro bono volunteers at SWLLC advised four and half thousand people in 2012. This is about 50 per cent of the overall number of clients seen at the Law Centre during the same period.

These six examples reflect two main models of delivery:

- i. Volunteer-based projects created with pro bono volunteers as the main advice providers. Unique models such as the Manuel Bravo Project and the advocacy service at Muscular Dystrophy Campaign were designed to suit the particular advice needs of a particular community; and
- ii. Tried and tested models of working with pro bono volunteers to add capacity to existing services. Projects include student partnerships with Avon and Bristol Law Centre and Coventry Law Centre; and evening advice clinics at Toynbee Hall and South West London Law Centres.

What are we learning?

Core legal skills have real transferable value

Lawyers do not need to stay within their own areas of expertise to deliver meaningful pro bono advice. Core legal skills have real transferable value as shown in projects such as the Manuel Bravo Project (MBP), and the advocacy service partnership between Muscular Dystrophy Campaign (MDC) and law firm, Hogan Lovells.

In both examples, the projects draw on core legal skills such as interviewing clients, document management, forensic evidential analysis, drafting witness statements or preparing papers for Tribunal. In the case of MDC, Hogan Lovells volunteers also draft correspondence to government departments and housing associations on behalf of MDC's clients

to encourage progress in a case. In some instances the firm will also represent MDC's clients at Tribunal or at a Judicial Review hearing. Interestingly, whilst training for volunteers is regarded by both projects as important for background knowledge and context to the area of law, for the most part, research into particular points of law can be done on an individual matter basis. Both acknowledge that it is the volunteers' core legal skills that make the projects successful and valuable to clients.

Independent research into volunteering at SWLLC reveals high levels of client satisfaction with the service they received from volunteers^{iv}.

This will be interpreted as good news by some readers but will ring alarm bells with others. At a time of drastic cuts in public funding, pro bono lawyers are regarded in some quarters as the answer to the social welfare advice deficit that is looming. This is a worrying prospect for the profession as a whole, which understands that transferable legal skills are no substitute for years of specialist training in, and practice of, social welfare law.

Replicating a unique pro bono model is not easy

Part of the Future Advice grant to Manuel Bravo Project (MBP) is to facilitate research into replicating its pro bono model in two additional cities in the UK. This work will start in autumn 2013. The need for funding suggests that replicating a bespoke pro bono model is not a straightforward task. It is not enough simply to copy the training manual, recruit volunteers and advertise your service. Unique models such as the projects at MBP and Muscular Dystrophy Campaign are designed to suit the particular

advice needs of a particular community. (Examples of the factors needed for a successful pro bono partnership are referred to later in this bulletin in the section on 'Creating a sustainable model'). Aside from many external factors, what really underpins bespoke pro bono projects is the motivation of key individuals to work towards a common goal and a series of one-to-one relationships built on trust. Without these core ingredients, the integrity of the project is missing, making it difficult to attract funding, volunteers and clients. Just as successful relationships are hard to copy, one-off pro bono projects are too.

Perhaps an easier approach for some organisations is to adapt a tried and tested pro bono model. Legal advice clinics are a good example of this. LawWorks, the operating name of the Solicitors' Pro Bono Group, has information sheets on its website and its own Clinics project devoted to helping agencies set up a clinic.^v LawWorks also provides know-how guides and information on setting up pro bono projects with law students, including a 'Drop-in Clinic Manual' produced by London South Bank University.^{vi} Setting up any new project requires an investment of time and energy but where there are precedents available and advice at hand it is undoubtedly easier than starting to build a project from zero.

Pro bono brokers and specialist local advice agencies need to work in tandem

Pro bono brokers play an important role in the UK advice sector. Perhaps the best known are the national brokers such as LawWorks, the Bar Pro Bono Unit (BPBU) and the Free Representation Unit (FRU). They provide a vital service connecting individuals and voluntary organisations with lawyers offering pro bono advice. In 2012, LawWorks started developing regional hubs to build a network of legal advice stakeholders who will encourage local participation in pro bono activity. Pro bono projects will be developed within the hub regions to target specific local needs. Pro bono activity in the North East is being coordinated by Northumbria University School of Law and other regional hubs are being developed in Manchester, Birmingham, Yorkshire and Bristol. At the moment, access to information about the projects being developed is restricted to hub members only. It is hoped that what could be

important learning will ultimately be shared and made publicly available. In April 2013 LawWorks also opened LawWorks Cymru to help co-ordinate pro bono provision throughout Wales.

The grantees referred to in this bulletin were familiar with the main pro bono brokers. Several commented on having used their services for individual matters and were pleased with the advice they received. MBP and CLC mentioned that the BPBU and LawWorks had agreed to relax their application processes to be able to provide a service that met the agencies' requirements. When CLC receives requests for organisational advice from voluntary sector agencies it invariably refers them to LawWorks. However, most of the grantees felt that small charities looking for legal advice would probably start with their local Council for Voluntary Service (CVS) or Citizens Advice Bureau (CAB) rather than one of the national pro bono brokers due to familiarity and ease of access. Hopefully the LawWorks projects being developed across the regions will address this local access issue.

Shared goals are a key factor in successful pro bono partnerships

Taking the projects at Avon and Bristol Law Centre (ABLC) and Coventry Law Centre (CLC) as examples, their collaborations with local law schools originated because of a desire on both sides to address a particular advice problem. Both Law Centres were facing overwhelming demand for advice in particular areas of law: welfare benefits and immigration and asylum, respectively. The local law schools were looking for meaningful pro bono projects where their law students could gain first-hand experience of advising clients, supported with training and supervision from specialist social welfare lawyers. The projects address the needs of both sides of the partnership and their shared interest in a successful outcome is producing excellent results. ABLC has an 80 per cent success rate in its first year and the initial pilot is hoping to expand to cover other areas of advice. At CLC the project has been running successfully for five years and has led to other projects with the University of Warwick including a collaborative PhD.

In the same way that advice agencies and non-advice agencies are starting to form new

alliances to deliver advice, so too are pro bono providers and non-advice charities. It makes sense for them to do so. Pro bono providers with mature programmes are keen to collaborate on projects that work on a number of levels. Multi-level projects often deliver immediate assistance to individuals with the added potential to bring about strategic, policy level change. They can be a good fit with the policy goals of non-advice charities and also meet pro bono providers' aspirations for staff skills development, thought leadership and innovation. The advocacy services partnership between Muscular Dystrophy Campaign (MDC) and Hogan Lovells is a good example of shared goals bringing about positive change for a particular client group. The project also has the potential to further the policy agenda for MDC, which is an agreed long-term goal of the project partners.

What are the challenges?

The need to remain flexible

One of the most frequently cited challenges of working with pro bono volunteers is that "their day job gets in the way". That does not mean that pro bono volunteers are unreliable. For the most part they are exceptionally committed and manage to fit legal volunteering around other commitments (usually work). However, there are times when legal volunteers from firms and chambers have to prioritise urgent matters for their fee-paying clients. For the grantees running drop-in advice clinics with pro bono volunteers, the need to operate flexibly and manage client expectations is a constant challenge. It is a hazard of the drop-in clinic model that advice agencies cannot direct clients to pro bono clinics with a guarantee that they will be seen by an adviser. The 'host' agencies do not know until the day of the clinic how many volunteer lawyers will attend and how many potential clients will turn up needing advice. Demand often outstrips supply.

To address this challenge Toynbee Hall is exploring how pro bono advice could be provided remotely to meet an increasing demand from clients for employment advice. It is not alone. Advances in IT make it an increasingly viable proposition to run pro bono advice clinics via a video link. Law firm Clyde & Co LLP runs a weekly employment clinic for Brent CAB clients

via Skype. Clients attend the CAB at a pre-arranged time where they speak to qualified employment solicitors via the Internet. The solicitors are provided with details of the clients' advice needs in advance and provide advice from a meeting room at the law firm. Law students are also a vital part of this clinic model. They provide the solicitors with a summary of the client's problem, attend the CAB to accompany the client during the advice session, sort out any minor technical difficulties, and will often draft the first advice note for the solicitor to review. This model has economic advantages (after the initial setup) and can be a good way to reduce volunteer drop-out rates from evening clinics because once the advice session is finished, volunteers can continue with their work. It also gives greater flexibility around appointment times making it easier to match adviser and client availability. However, it is not without its own challenges such as frustrating technical glitches, language difficulties and loss of the extra level of trust and clarity of understanding that can only be derived from face to face advice.

For traditional evening clinics, some grantees caution against relying solely on law firm volunteers for advice clinics and recommend combining law firm rotas with independent solicitor and barrister volunteers. Grantees also place emphasis on developing strong relationships with pro bono coordinators (where there is one) at the larger law firms, chambers and law schools. Pro bono coordinators can be very helpful when better training and supervision is needed to address volunteer drop-out rates, or when firms need to communicate better the importance of the volunteering responsibility. They may also be able to 'over-staff' the volunteer rota to take account of unavoidable work commitments. When both sides are clear about expectations, conversations are easier and challenges can be managed.

Flexibility is also important at strategic level. Building in enough time for pro bono lawyers to deliver their advice is an important consideration when designing a pro bono advice model. This is particularly true when the advice model has pro bono lawyers as the main advice providers. When the Manuel Bravo Project (MBP) launched in 2005, there was ample time (usually several months) for pro bono lawyers to prepare cases for Tribunal due to the UK Border Agency

(UKBA) backlog of asylum appeal cases. Fast forward to 2013 and the political landscape looks hugely different. In 2013 there is sometimes only a 10-day appeal window, after which the asylum seeker faces a process of removal from the UK. MBP's advice model was not planned around 'rapid-response' work and it needed to be supplemented by an additional OISC registered caseworker to remain sustainable. Another political challenge has been monitoring the Government's dispersal pattern for asylum seekers. When MBP was launched, Leeds was a hub for asylum seekers from Afghanistan and Zimbabwe. In recent months both MBP and the law firm volunteers have noticed a significant drop in the number of individuals they are seeing from those countries of origin. One reason could be that UKBA is sending asylum seekers to different areas of the UK pending their appeal hearings. MBP is responding by using its contacts across West Yorkshire to widen its referral network.

Developing a sustainable model

One of the main challenges of a project that relies on pro bono volunteers to deliver advice is how to make it sustainable. Sustainability is a challenge for all organisations, commercial and voluntary, but when pro bono volunteers are the main assets in the delivery model and that asset is by its nature constantly changing and needing to be replenished, it requires particular attention. However there is no reason why a pro bono advice model can't be sustainable. Some of the grantees referred to in this bulletin are good examples of models that are sustainable: Toynbee Hall has been running its Free Legal Advice Centre for 115 years and currently advises around 5,000 clients annually. South West London Law Centres and Avon and Bristol Law Centre also have longstanding partnerships with pro bono volunteers, currently 35 years and 20 years, respectively.

The learning from grantee MBP is that a sustainable model needs to be robust yet flexible enough to accommodate changes in external factors. Likely challenges to advice continuity might include: changes in key staff at MBP; law firms dropping out of the rota and a consequent sharp drop in adviser numbers; new firms joining and time needed for their advisers to 'learn the ropes'; and funding streams finishing. MBP has created a model that should survive such

challenges. It did so in the following ways: it maintained and developed its original network of contacts in the local Christian community to create a strong support network and referral platform; it hired a development worker at the outset who spent two years researching, developing and marketing the project; it developed strong relationships with local law firms to create a panel of law firm volunteers alongside individual pro bono volunteers; one of the pro bono volunteers, a Partner from DLA Piper, sits on MBP's Management Committee; it linked the project into local law schools to engage student volunteers; it offers good training and supervision to volunteers; it ensures the project has a strong profile and a good reputation in the local community and nationally (for example, by winning awards for its work); it monitors and evaluates its work which helps it to demonstrate impact and value to funders; and it seeks funding to develop and innovate as well as to remain open.

Pro bono advice is only free for the client and cannot be delivered without an infrastructure

It is a popular misconception, including in certain Government departments, that pro bono volunteers are a free resource. It is worth being clear; pro bono advice to the client is free of charge but there are a number of potential costs to the host organisation. These include the cost of employee time to recruit, train and supervise volunteers, a process usually involving different members of staff. For projects involving large numbers of volunteers, it may be cost-effective to recruit a volunteer coordinator, though grantees have commented that funding for volunteer services is hard to come by despite the current political leaning towards volunteering. There may also be insurance costs and regulatory requirements such as OISC registration for immigration and asylum work. (More detail on regulatory barriers to volunteering can be found in bulletin no.4 in this series, on working with volunteers particularly in the provision of immigration advice). For evening advice clinics, it is also usual practice to have a receptionist or administrator to register clients as they arrive and, at drop-in clinics, for them to 'triage' the advice request to make sure the right legal expertise is available. These are all costs to the agency.

When large firms send pro bono volunteers to advice clinics on a regular basis, there is often an expectation on the part of the agency that the firm will contribute to the costs of managing the volunteers. This means the pro bono services will be provided on a cost-neutral basis. Many firms agree, but some feel that the intrinsic value of the lawyers' time to the agency is payment enough, particularly if the firm is also paying the salary of a pro bono coordinator within the firm. This can lead to resentment on both sides and is a question best addressed at the outset.

Overcoming negative perceptions of pro bono within the advice sector

In an essay published in 2012 called 'No Substitute', Sir Geoffrey Bindman, founder of Bindmans Solicitors said; "In the present dire state of legal aid, pro bono is like donating deck chairs to the sinking Titanic".^{vii} An asylum seeker granted leave to remain in the UK after pro bono support from a MBP lawyer would probably disagree. Right or wrong, it is an image that sticks in the mind and is illustrative of the negative perception of pro bono within the legal advice sector and the passionate response it provokes. To put the quote in context, the main thrust of the essay was to urge the commercial part of the legal profession to donate money rather than pro bono volunteering time. Many social welfare lawyers understandably share this view, but many can also see the additional value that pro bono volunteers bring to advice agencies.

Pro bono lawyers are some of the strongest advocates for social welfare law specialists and there is immense value in having ambassadors across the profession.

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Further reading and links

Bar Pro Bono Unit
<http://www.barprobono.org.uk/>

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Free Representation Unit
<http://www.thefru.org.uk/>

i-Probono
<http://www.i-probono.com/aboutus.aspx>

LawWorks – The Solicitors Pro Bono Group
<http://www.lawworks.org.uk/>

Leanne Ho, National Pro Bono Resource Centre (Australia) (2013) *Pro Bono Partnerships and Models: a Practical Guide to What Works*
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http://www.jures.co.uk/whitepapers/EqCGINP3_Closing%20the%20Justice%20Gap.pdf