

# Lovells

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## **Pro Bono: 10 lessons from 10 years**

An interim report for National Pro Bono Week

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## Introduction

Ten years ago Lovells was the first major City law firm to set up a full time Pro Bono Unit and appoint a full time pro bono manager to develop and oversee the firm's commitment to providing pro bono legal services.

This document sets out 10 lessons learned from the last decade of offering our experience and commercial legal knowledge to individuals, charities and social enterprises which are unable to afford legal advice or to secure state legal help. It provides illustrations of work that is recognised as best practice and demonstrates what can be achieved with a focused approach and investment in time and systems in a large commercial organisation. We hope it informs the debate around the future of pro bono in the UK and how law firms can take a commercial approach to the provision of pro bono.

## The greatest lesson from 10 years

In looking at 10 lessons from 10 years, perhaps the greatest lesson is that pro bono is about the strength of the relationships that are built between the lawyers and their clients. The pro bono clients appreciate the lengths that the firm and its lawyers are prepared to go to on their behalf and the lawyers enjoy the challenges of work that can often be a long way from what they do for their other clients. That may include climbing up a ladder to visit tube carriages being converted into artist studios, boarding a boat on the river Thames to see how businesses are storing their waste or even holding a completion meeting in a prison to finalise the restructuring of a charity providing a radio project.

Doing this work enables us to help organisations that are passionate about what they are seeking to achieve. This passion is ultimately shared by our lawyers and can help bring a new perspective and enthusiasm to all those involved.



## Ten lessons learned

### 1. Pro bono has a unique place in the provision of legal services

Pro bono advice fills a vital gap in the provision of legal services in the UK. That does not mean that it is a substitute for a comprehensive legal aid service, nor does it mean that pro bono lawyers should be doing work which has previously been undertaken by High Street law firms. Pro bono supports those individuals who are unable to obtain public funding for their case and those charities or small social enterprises which simply do not have the resources to pay privately for legal advice.

Lovells is committed to playing its part in supporting the fair administration of justice and donates a significant amount of time to pro bono projects.

Some consider that the pro bono movement absolves the government of its obligation to provide legal aid. Yet even the dynamic growth in pro bono initiatives over the last decade only addresses a small portion of the legal aid deficit. Pro bono can never be, not should be, a substitute for a properly funded comprehensive legal aid system. The aim of the pro bono movement is to supplement rather than replace legal aid by assisting those who are ineligible for state legal help.

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### **Criminal Injuries Compensation**

For seven years we have represented victims of crime in their appeals before the Criminal Injuries Compensation Appeals Panel (CICAP). There is no legal aid available for these kinds of cases and many victims of crime do not have the resources to pay privately for legal assistance. During 2005, we acted for 20 cases referred by various Victim Support branches across London and the South East and secured awards of compensation totalling over £600,000 in cases where the victim had initially been refused a compensation payment. We continue to assist Victim Support's clients with appeals to CICAP.

Building on this experience, we assisted 30 victims of the 7 July Bombings in London. Our work has focused on advice in relation to applications to the Criminal Injuries Compensation Authority (CICA), but has also included advice on employment issues, welfare benefits and insurance issues. The first substantial award from CICA for our London Bombings victims came through in October 2007 and our client was awarded £245,710 in compensation for physical injuries sustained and loss of earnings as a result of post-traumatic stress.

We also work closely with the Poppy Project, a programme run by Eaves Housing, and during the summer of 2007 we secured the first compensation award to be paid out to a victim of trafficking in the UK. We represented two sisters from Romania who had been trafficked to the UK, falsely imprisoned and forced into prostitution. We applied for compensation for the crimes suffered and also for compensation for false-imprisonment and forced prostitution, elements which are not specifically mentioned in the CICA tariff guide, together with loss of earnings for the period of their imprisonment. In July and August this year, the CICA made awards of £62,000 and £36,500 to the older and younger sister respectively. These consisted of an award from the tariff for the crimes they had suffered and an additional discretionary award for loss of opportunity, to reflect the fact that during the time of their imprisonment, neither sister was able to earn money for themselves.



## 2. Pro bono work goes beyond human rights

Traditionally, pro bono advice has been seen to focus on human rights, but it has developed over the last decade to reach the needs of individuals and not-for-profit organisations that need civil legal advice. This could be advice on housing law, personal finance, charity or even intellectual property or employment matters and quite often a client can require a combination of all of these legal skills. Although not forgetting our commitment to those with human rights needs in the criminal justice system who have no legal advisors, Lovells' experience is that broadening the scope of the pro bono offering beyond litigation advice, bringing the different legal skills of the firm's other commercial lawyers together, often results in a much more holistic and appropriate solution for the client.

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#### **Prisoners Abroad and Kenny Richey**

Building on our vast experience of representing prisoners on death row before the Judicial Committee of the Privy Council, Lovells started working with the charity Prisoners Abroad to secure a policy shift which allows British prisoners, who can show a miscarriage of justice, to secure the support of the UK Government for clemency applications. Prisoners Abroad aims to safeguard the welfare and basic human rights of British Citizens detained abroad. They provide services to Britons held overseas, families and friends of Britons held overseas and Britons returning to the UK following imprisonment overseas.

In 2002, we became a founding member of the Foreign and Commonwealth Office's Pro Bono Panel assisting British detainees abroad. To that end, we are the UK representatives of Kenny Richey, a Scottish national who has been on death row in Ohio for 20 years. In 2002, we ensured Kenny Richey's right to British nationality was recognised. Despite having a Scottish mother and having grown up in Scotland, the UK had insisted he was not entitled to British nationality because of an anomaly in the UK nationality law whereby automatic nationality was granted to children having British fathers not British mothers. We worked with the Tuberville Campaign, Laurie Fransman QC, Reprieve and Amnesty so that the anomaly was corrected in the Immigration and Nationality Act of 2002. On 10 August 2007, the United States Court of Appeal for the Sixth Circuit upheld its previous ruling, which overturned Kenny Richey's conviction, following the prosecution's appeal of that ruling to the US Supreme Court on a legal technicality. Kenny Richey was taken off death row but remains in custody awaiting a retrial.



### 3. Pro bono services should reflect the needs of the pro bono client

It is not enough for law firms to offer particular skills, such as litigation, to its pro bono clients on a ‘take it or leave it’ basis. The best approach is to ask the client *‘what can we do to help?’* rather than saying *‘this is what we can do for you, and can you accommodate us?’*

#### Streetshine

Streetshine is a social business that gives vulnerable people the opportunity to earn a living and learn valuable new skills through shoe shining. All employees of Streetshine, or ‘shiners’, have experienced homelessness, suffered disadvantage in the job market and are in the process of rebuilding their lives. As shiners gain self-esteem, self-confidence and work skills, they progress to full time employment within the company.

Lovells had built up significant experience in assisting social entrepreneurs who were starting up not-for-profit social businesses or Community Interest Companies. Through our work with Streetshine, we developed a unique constitutional and financing structure to enable Streetshine to take advantage of investment by the homeless charities Thames Reach Bondway and Glimmer of Hope Foundation. In addition, we advised on other legal issues such as staff contracts and service level agreements between Streetshine and their customer organisations.

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#### **4. Pro bono needs to be institutional as well as individual**

A commitment to pro bono must be underpinned by a robust institutional structure. For pro bono to thrive in a law firm it needs to have genuine institutional resources applied to it and not be solely reliant on the goodwill of individuals. There must be a commitment, at the most senior levels, to delivering pro bono advice to clients with the same enthusiasm and dedication as the firm's other clients. Firms should not view pro bono as an "add on" to be completed in a lawyer's spare time. Pro bono policy should support the provision of pro bono advice during the office day and pro bono hours should be taken into account in determination of lawyer bonuses and appraisals.

##### **Save the Children International Alliance trainee secondment**

In 2006, Lovells launched a six-month trainee secondment to the International Save the Children Alliance. Save the Children works for children everywhere. With member and national organisations in 28 countries and programmes in over 120, Save the Children works for a world which respects and values each child, which listens to children and learns, and where all children have hope and opportunity. The alliance co-ordinates and supports its members' efforts to achieve this goal.

The truly international nature of the organisation means that our trainees are communicating with members in a range of countries on a daily basis. Moreover, the international nature of the alliance's activities means that often contracts will not be governed by English law and trainees may be called upon to advise on disputes in a variety of jurisdictions. Our trainees gain unique experience working on intellectual property, contractual, employment law and corporate governance matters within an international charity.



## 5. Lawyers value the opportunity of doing pro bono work

Pro bono provides a totally different way of working. From day one lawyers have to deal with very practical matters that can, for example, mean the difference for the pro bono client between having a roof over their heads or being out on the streets or between having an injunction in place to deal with an abusive partner or being completely unprotected from further violence. This immediacy and relevance is highly attractive and rewarding for the lawyers as well as the pro bono clients.

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### **Emma Nicholson and the National Centre for Domestic Violence**

Lovells works in partnership with the National Centre for Domestic Violence to provide vital legal assistance to men and women who are victims of domestic abuse but ineligible for legal aid. In the last year, we have advised and represented over 50 clients with obtaining an urgent injunction to prevent further harm by the offender in addition to providing much needed support to the client during a traumatic and intimidating process.

Emma Nicholson, a three-year qualified associate in the litigation and dispute resolution department, oversees the firm's efforts to gain non-molestation and occupation orders for victims of domestic violence. Emma co-ordinates and supervises the panel of around 40 lawyers and trainee volunteers who participate in this programme. "The trainees and qualified lawyers get to do real advocacy in front of a judge and it helps with the Higher Rights of Audience qualification".

Apart from the practical experience, Emma says that she is inspired by having a direct and positive influence on somebody's life. "I was acting for a woman about my age. She was referred to us from the National Centre for Domestic Violence after being abducted and beaten by her ex-partner. After I had taken her witness statement, we went down to court together to request a court order. During the hour wait to see the judge, her ex-partner called her 21 times, leaving voicemail messages and threatening to kill her. It was a glimpse into the level of harassment and fear my client had to deal with. When we were granted the order, her ex-partner was so terrified of the court order and its implications that he left her alone. The order had the desired effect and, several months on, the woman is happy and can start to lead a normal life after months and months of assaults and constant phone calls".



## 6. Pro bono clients should receive the same quality legal services as fee paying clients

Pro bono work, even if carried out by more junior lawyers, should involve partners and senior associates to ensure that quality standards, both in relation to technical legal advice and the management of the relationship with the pro bono client, remain at the same level as for any fee paying client. This 'quality control' can be enhanced by fully integrating pro bono into the professional development of lawyers.

### Action for Blind People

Action for Blind People aims to ensure that blind and partially sighted people receive practical support in all aspects of their lives. Their mission is to inspire change and create opportunities to enable blind and partially sighted people to have equal voice and equal choice. Lovells has provided advice to many talented and creative visually impaired entrepreneurs. We host the Entrepreneurs Forum networking meetings, and have supplied speakers on subjects of interest to micro-businesses, such as company structures or terms and conditions. To improve the service we provide, our lawyers and receptionists have participated in visual awareness training. We have also published basic employment law fact sheets for Action for Blind People which are available in braille and on tape.

More recently, the firm established a team of lawyers to assist three Action for Blind People micro-businesses to set up as independent companies run by visually impaired entrepreneurs. Trainee solicitors assisted each of the micro-businesses on a day-to-day basis and reported directly to their supervisor and to the matter partner. The process of negotiating the agreement transferring the Action for Blind People micro-business to the newly formed company was technical and complex and involved not just corporate and contractual issues but also employment and property law considerations.

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## 7. Pro bono goes beyond what the lawyers provide

An international commercial law firm has a wealth of resources and knowledge that goes well beyond the legal skills of its lawyers. It has meeting rooms, conference facilities, information technology and a telecommunications infrastructure. It has support staff who work alongside the lawyers and bring their own particular skills in areas such as marketing, human resources, finance and information technology. All of these resources can be deployed for the benefit of the pro bono client.

### **Business Action on Homelessness**

Business Action on Homelessness (BAoH) is a unique partnership between business, homeless agencies and the Government. BAoH aims to break the vicious cycle of 'no job, no home' through equipping the 'hidden homeless', those who do not necessarily sleep rough but who live in hostels, B&Bs or supported accommodation, with the necessary skills to gain and sustain employment and achieve independent living. It is estimated that there are 380,000 people living in this situation in England.

Lovells has hosted the BAoH 'Ready to Go' Day which aims to prepare the homeless clients for returning to/entering the workplace. Our volunteers from Human Resources ran activities centred on building each client's confidence and self-esteem and provided training on securing a job, CV preparation and mock interview practice. Following the training, the BAoH clients had interviews for two week work placements within various businesses. The clients returned to Lovells following their work placement to discuss their progress and to receive advice for their future employment.



## 8. Results, not hours, are what count

Firms that engage in pro bono activity need to really focus on the results they are achieving for their clients. There is a danger of measuring pro bono purely on the number of hours committed, rather than the outcomes achieved. Much debate surrounding the provision of pro bono, especially in the United States, has centred around whether there is a target number of hours that a lawyer should provide on a pro bono basis. This thinking is far too simplistic and ignores the 'value added' of the advice that lawyers can provide. As fee paying clients shift their emphasis to measuring the value their lawyers provide rather than the time they spend on dealing with their matters, so too should pro bono clients. In eviction cases, a lawyer can spend 20 minutes taking instructions from the client, negotiating with the landlord and representing the client before the District Judge. The result of this short investment of time can mean that the client is able to return to their home, free from the threat of eviction.

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### **Community Links and Disability Living Allowance appeals**

Founded in 1977, Community Links is an innovative charity which has helped tens of thousands of children, teenagers, adults and older people in deprived neighbourhoods of East London. Community Links runs a network of over 60 community projects that aim to empower individuals and help them to build their own ladder out of poverty and towards a brighter future. Their advisory services for the elderly and disabled help to restore independence and dignity. Community Links successes influence both community-based organisations nationwide and government policy.

Lovells receives referrals from Community Links in relation to Disability Living Allowance appeals cases and we have provided solicitor-advocates to represent hundreds of individuals living with a disability at benefit appeals hearings. The impact our support and involvement has on the clients is substantial as evidenced by the case study below.

Lovells associate solicitor, Nick Williams, represented Edward at his Disability Appeal Tribunal hearing. Nick won the appeal and Edward was awarded the higher rate mobility and lower rate care components of disability living allowance, increasing his weekly income from £84.40 to £146.50.

Without Lovells' involvement, Edward who suffers from osteo-arthritis, a cardiac blockage and diabetes with sight loss, would not have had a representative and undoubtedly would not have attended his hearing. Nick visited Edward at his home to gain a better understanding of his care needs and then completed a detailed four page submission to the Tribunal including relevant case law, legislation and reference to an occupational therapist report and GP report that Community Links had obtained. Nick attended the hearing and following a detailed interview of the client by the Tribunal, Nick made further representations on Edward's behalf. Edward is moving towards retirement but instead of a retirement in debt he now has a chance of buying some simple things to make his disabled life a bit easier.



## 9. It is not about glory, but success needs recognition

Firms and individuals tend not to take up pro bono work in order to see their name in headlines. However, recognition of the wealth of pro bono work undertaken by the legal profession in the UK is an important aspect in demonstrating the tangible benefits it brings to society. Awards, such as the Lord Mayor's Dragon Awards, not only recognise excellence in the field, but go towards unearthing best practice. There is some way to go in terms of pro bono being recognised by politicians and the media as a sizable voluntary contribution to the administration of our justice system and this contribution needs reinforcing over and over again.

### The Lord Mayor's Dragon Awards

Established in 1986 by the then Lord Mayor Sir David Rowe-Ham, the Lord Mayor's Dragon Awards is one of the oldest and most well established schemes to reward companies and public offices across London for their Corporate Community Involvement initiatives in six separate categories – Education, Economic Regeneration, Community and Social Inclusion, Heart of the City, Lord Mayor's Award, and Volunteer of the Year. The awards set a new benchmark for business achievement in the capital, one which reveals the extent to which London's wealth is invested back into the community – whether through management-led initiatives within international firms or contributions from committed individuals. This year, the awards were presented by Lord Mayor John Stuttard at a ceremony at the Mansion House in the City of London on 10 October 2007. Lovells won the 2007 Lord Mayor's Dragon Award for Community and Social Inclusion in recognition of the firm's substantial commitment to pro bono work in London over the last 10 years.

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## **10. Lawyers and commercial clients can collaborate on pro bono projects**

Lawyers in commercial law firms enjoy a close relationship with their in-house clients. Bringing the skills and resources of these two groups together to focus on the needs of charities, individuals and not-for-profit social enterprises tackling disadvantage, which are unable to afford legal advice or to secure State legal help, is a very powerful force. It enables those who provide pro bono services to draw on the resources of the rest of UK PLC rather than operating in the vacuum of the UK's legal community. This is one of the most exciting developments in pro bono and reflects the increasing depth of resources and determination within in-house legal departments as well as the arrival into mainstream business life of a desire for businesses to be genuine forces for social good.

### **Bow County Court Advisory Network**

Bow County Court Advisory Network scheme (BCCAN) provides housing debt advice and representation to residents facing eviction, who come before Bow County Court. This service is the only one spread across four London boroughs covering all of the London Borough of Newham, and parts of Tower Hamlets, Waltham Forest and Redbridge. In 2004/5, BCCAN faced closure after 15 years of operation due to lack of funding and support but was saved by a collaboration between Barclays Bank Financial Inclusion Team, Community Links and Lovells' Pro Bono Unit. The scheme provides vital help to people who face the very real prospect of losing their homes in court hearings where legal aid is not available. It now also provides an onsite debt advisory service to help those facing eviction better manage their finances. As a result of this extra support, BCCAN has represented over 1,000 defendants facing eviction with a 90% success rate and has improved the service with additional volunteer lawyers.

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