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SECOND ANNUAL NOTTINGHAM PRO BONO LECTURE

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Three weeks ago the President of the Law Society presented eight awards for excellence. I will start this lecture by mentioning four of them, because they represent contemporary pro bono work at its very best.

The first was given to a solicitor who comes from a deprived part of South Wales. She pays frequent visits to a local community centre to give free legal advice to the elderly and the ill. People suffering from Parkinson's disease, or diabetes, or chronic heart disease, come to her for the sort of practical advice which they are very reluctant to seek from anyone else.

A second award was given to a young solicitor who works for a small charity which sends volunteers to countries where regard for human rights is not always much in evidence. He has spent the last six months in Guatemala providing a safe passage to local human rights lawyers. He does not carry a gun. His T-shirt symbolises the message: "The world is watching, and there will be a hullabaloo if we come to any harm." The fact that he is a Spanish-speaking lawyer makes him particularly useful.

A third award was given to a Birmingham solicitor who has been going to Iraq to help Iraqi civilians whose lives have been wrecked by British troops in Basra. He does not expect a fee, but if he collects enough evidence to justify a law suit, his efforts may then qualify for legal aid. If they don't, he carries on just the same. Two of his cases went through my court on their way to the House of Lords during the last year I sat as a judge. If it had not been for his efforts, they would not even have begun.

A corporate award was given to a City firm which helps a charity that befriends the homeless and the socially excluded. The firm provides pro bono advice on housing issues, but more importantly they make 20 work placements available each year to people who otherwise would have little prospect of finding a job. Fourteen of those they have helped have now found permanent work with the firm.

There have always been lawyers willing to provide pro bono help to those who cannot afford to pay. Readers of Alan Paton's *Cry, The Beloved Country* will remember that when Father Kumalo's son Absalom fell into bad company in Johannesburg, he was represented without fee on a murder charge by a white lawyer who told his father he was acting *pro deo* - for God. But pro bono legal services are now being provided in

this country on an unprecedented scale. What is now happening? Why is it happening? And where may it all lead? These are the topics I will be addressing in this lecture tonight.

I will be concentrating on the domestic scene, for want of time to do proper justice to our burgeoning international pro bono effort. For this reason I cannot do much more than hail the arrival on the scene of the International Lawyers Project (launched in 2005) and A4ID (or Advocates for International Development) (launched in 2006), which grew out of the response of City lawyers to Oxfam's call for help at the time of the tsunami. International Lawyers for Africa now brings 20 young African lawyers each year to placements in firms in London. And there is also the pioneering work being carried out by the Law Society's International Division and some enterprising law firms in different parts of Africa, and much else besides.

It is a great pleasure to be back in Nottingham, whose two universities have contributed so much to the study and practice of law in this country. I feel privileged to have been invited to give this second lecture in what I hope will be a very important series. It would be wrong not to begin by paying a tribute to last year's lecturer, Peter Goldsmith. More than any other single person he put pro bono legal services on the map in this country. Although we overlapped in the same chambers for 15 years, Peter came from a very different background. His father was a Liverpool solicitor, and Peter was always a legal insider. He was clever and awash with legal honours when he joined us in the early 1970s. He inherited from me a diet of legally aided clients, but he swiftly moved on from them to fame and fortune elsewhere. His skills were much sought after by City solicitors and their corporate clients.

But if he did not stay long with a legal aid practice he never brushed off his concern for people less fortunate than he. He recently described how he had founded a pro bono legal advice centre in Bethnal Green in his early years at the Bar. He was an outstanding success as chairman of the Bar Council in 1995. He then threw himself into the creation of the Bar Pro Bono Unit before he moved into politics. Whatever his critics may say on other topics, the way he contributed the authority of his office as Attorney-General to the development of the pro bono movement represented political leadership at its very best.

This lecture will not make much sense if I do not say a little about myself. I have no law degree, and I have always regarded myself as an outsider looking in. My family has always had plenty of politicians and clergymen, but none of us had any knowledge of legal practice. I opened my first law book at the age of 25. My year's pupillage at the age of 27 with Peter Webster, who had taught law briefly at Oxford, was when I really started to learn what the practice of the law was all about.

Like many of my generation, my own pro bono record was fairly undistinguished. I used to go down to a legal advice centre in Stepney to explain the difference between misfeasance and non-feasance in highway law to people who had tripped over a municipal paving stone. I also helped at another pro bono advice clinic closer to my home. From time to time I would act pro bono in careless driving cases at the request of partners in City law firms, with the implied promise of future fee-paid work which never came. Later on, I helped Tom Sargent, the Director of JUSTICE, when desperate litigants came to JUSTICE for advice as a refuge of last resort.

But I was very much a creature of my times. In those days our civil legal aid scheme

was the envy of the world. When it started, 70% of the population qualified for legal help of one kind or another. Legal fees were low, and barristers and solicitors were paid the market rate for the job less 10%. The 10% represented our contribution to the scheme. Most of us undertook legal aid work, and in this way skilled services were available to everyone who needed them and could not afford to pay. We did not go into the law to bring home vast sums of money: when our income began to rise, the top slices were taxed at a rate that would be unthinkable today. One commercial silk, with a top marginal rate of 83%, found it cheaper in the late 1970s to paint his house himself than to pay a builder out of the taxed income he would have earned if he had not been up a ladder.

Across the Atlantic things were very different. Americans saw our arrangements as socialist lawyering. In an entrepreneurial society this was as much an anathema as socialist medicine. Only the very poor who were facing serious criminal charges would be provided with a defence lawyer at public expense, and the quality of those lawyers was often very low. Atticus Finch, alias Gregory Peck, who acted for Tom Robinson on a capital charge in *To Kill a Mockingbird*, was a notable exception. Pro bono lawyering, on the other hand, has flourished in the States for more than a hundred years. It represents a kind of middle class philanthropy. Although there is much more of it now than ever before, as I will be describing later on, it is a poor substitute for our arrangements for publicly funded legal aid. Like all voluntary effort it is fairly hit and miss, with a lot of needy people missing out altogether.

How, then, has pro bono lawyering developed over here, and what is happening today?

I began to practise at the Bar in the early 1960s. The 1970s saw the beginnings of the Law Centre movement. It also saw the emergence of the Bar's Free Representation Unit (FRU). FRU started in a pub in Chancery Lane in 1972. At an anniversary event this summer I heard some of its founders describing how when they weren't playing darts rather badly they discussed how they would provide free legal representation to those who could not afford to pay. They called their group "Bar Students for Legal Advice". They were bold enough to write to the Council of Legal Education in these terms:

You may know that there's a certain amount of unrest and disquiet among your charges about the education you are giving them. To assist you to make your students happy, quiet and satisfied, we offer you the following advice.

The Council needed that advice but they did not take it. Fifteen years later FRU had graduated from the pub to an attic at the top of Middle Temple Lane. With a few others I helped to raise the money to rehouse FRU in a couple of rooms in Gray's Inn. We also converted it into a charitable trust. Before all the money ran out, we bought them their very first Amstrad computer. But although it now had some rather grown up trustees, the essence of FRU remained the same: a dedicated group of young Bar students and pupils, running their own show and providing invaluable service to those they represented. As a group of trustees we were so committed to our policy of minimum intervention that we forgot to have our accounts audited for the first three years. Fortunately no money seemed to have gone walkabout.

I remained a trustee of FRU for ten years, and since then I have been one of its patrons. FRU continues to provide a marvellous service. In the year ended March 2007 it provided representation in 324 employment cases, 281 social security and

welfare cases, 67 immigration and six criminal injuries compensation cases. 70% of its volunteers are students. The rest are practitioners, mostly junior barristers at the outset of their careers.

For most of the time I was a trustee of FRU, there was no pro bono activity of an institutional kind on either side of the profession. Things changed at last in 1996 with the creation of the Bar Pro Bono Unit. It now has on its books offers of help from 1,700 barristers across England and Wales, including 240 QCs. Each of them offers their services to the Unit free of charge for at least three days each year. A new development is the Unit's relationships with entire sets of Chambers. It now has 40-50 sets on its books. This does not preclude it from turning elsewhere if very specialist help is required.

The Unit now provides pro bono representation to every litigant in person in the Court of Appeal who is granted permission to appeal, so long as they do not have legal aid, cannot afford to pay for the help they need or get it elsewhere, and unless the time required is simply unrealistic for pro bono assistance. Their appeal will have been judged to have some merit, but without a professional advocate they are often at sea. I remember numerous occasions when this source of unpaid help was of immense value to the court.

The Unit now provides free advocacy services in about 300 cases each year, in the Court of Appeal or other courts, in tribunals or at mediations. Help may also consist of advice given in writing or at a meeting with the client. It may involve a great deal of work.

This is not, of course, all that barristers do pro bono. For centuries, as Peter Goldsmith said last year, members of the Bar have acted pro bono from time to time. Today there are also four Circuit free representation schemes, a Speaker for Schools scheme, a mock trials competition run by the Citizenship Foundation, and work, such as the representation of death row prisoners in the Privy Council, that flows from the activities of the Bar's Human Rights Committee.

The solicitors' side of the profession quickly followed suit. After a small group of visionaries had produced an influential report on the topic, the Solicitors' Pro Bono Group (SPBG) was formed in 1997. SPBG is now called LawWorks. It is membership-based, and costs just £600,000 to run. Annual subscriptions vary from £200 to over £5,000, depending on the size of the firm. Individual solicitors pay £50 per year. Its membership now includes 73 law firms, 16 in-house legal teams and ten other organisations including EDF Energy, Lloyd's TSB Bank and the Law Centres Federation. Like the Bar Pro Bono Unit, LawWorks aims to help individuals and community groups who do not qualify for legal aid and who cannot afford the help they need. Its present chief executive used to be with the Lord Chancellor's Public Legal Services Division in the days when it was trying hard to develop joined-up community legal services.

Under the LawWorks banner, solicitors now provide pro bono services through six main workstreams. Much of this effort is concentrated in London, where most of the big firms are, but LawWorks has just appointed a part-time regional co-ordinator in Manchester, and this is a development they want to repeat elsewhere. The reason why I want to dwell on their work is that this will show that with rather more funding and administrative support much more pro bono work could be done in future.

At its beginnings the LawWorks law clinic project matched law centres that needed help with the firms that could provide it. Venues for clinics now include community centres and public libraries. Each clinic is custom-made to fit local requirements, through partnerships created between local law firms and voluntary sector advice agencies. In the last 12 months over 35,000 separate pieces of advice were delivered face to face at 70 clinics. Most of this advice is fairly straightforward. The people who come to the clinics have problems, and they want to receive objective advice from someone with legal training who can help resolve their problems.

There is no good reason why many more clinics should not be established in areas where there are none at present. For these and other elements of their programme LawWorks also provides extensive training in different aspects of social welfare law. This year it will have trained 700 lawyers who had little previous exposure to this area of the law.

Next there is the electronic frontline advice service and other helpline services. The first consists of a secure automatic web-based system. It can only be accessed by agencies like Law Centres, Citizen's Advice offices or LawWorks clinics. Someone at the agency transmits a question into the system, classifying the question by its subject matter. The system then searches its database, and when it has found the lawyer with the necessary expertise who is then at the top of its list, it will forward the question to that lawyer. If it is accepted, the lawyer submits the advice, and the agency is told by email that the advice is ready to be downloaded. The lawyer then goes to the bottom of the list. If it is rejected, the system selects the next lawyer, and so on. This advice is given anonymously.

This frontline advice may then lead to a request for in-depth help. These requests are sifted by a case reviewer, who may split them into bite-sized portions if they embrace a number of different legal problems. If a request is accepted, LawWorks staff will send the papers to a lawyer who has expressed a willingness to give in-depth pro bono advice in that field of law. If it is turned down, LawWorks will try elsewhere.

LawWorks' helpline was set up in collaboration with the Law Society less than 48 hours after the July 2005 London bombings. It had a forerunner in the helpline services established by the Association of Trial Lawyers of America after the 9/11 disaster. The London helpline distributed the work among the 40 firms of lawyers who offered to help. Its objects were to ensure that sound legal advice was available free to everyone who needed it, and to prevent unregulated claims companies muscling in on a vulnerable market. The Bar Pro Bono Unit also provided specialist services on a referral basis. One press report spoke of the help an injured Australian passenger in the Tavistock Square bus had received from a solicitor in one of the participating firms. She was helped to make a claim under the criminal injuries compensation scheme. She went home soon after the bombings, and from the other side of the world she expressed her gratitude for the way her claim was being processed completely free of charge. She said: "Daniel has been a lifeline". The website at www.probonouk.net was of immense value in channelling the calls for help to those who were qualified and willing to provide it.

The third LawWorks project is concerned to help community groups, small charities or other social enterprises, for whom non-urgent, non-contentious legal advice is provided. They also respond to requests for help from voluntary sector umbrella bodies like NCVO. During the last 12 months over 375 organisations have been helped

in this way by solicitors in over 50 law firms or in-house legal departments. Project staff help the “clients” to understand the scope of the advice they should be asking for and to seek help with legal problems they might otherwise have missed. Once accepted by one of the lawyers on their list, the organisation being assisted will become formally a pro bono client of that firm.

This project provides a golden opportunity for lawyers to contribute to pro bono work from their workplaces at a time that is convenient for them, and to attract those who have no particular skills at “client communication” but know a lot about their particular area of specialist law. γνῶθι σεαυτον, the inscription engraved above the portico of the Temple of Apollo at Delphi, is a useful precept for a would be pro bono lawyer. It means “Know thyself”, or “Stick to what you’re good at”. There are now plenty of opportunities for everyone so long as people’s needs can be linked to the capacity to meet their needs.

Next comes pro bono mediation. This all began when two retired City solicitors started conducting pro bono mediations from their homes, and the project has now grown to the extent that there is now a panel of 100 accredited mediators all over the country who are willing to undertake 3-hour pro bono mediations. The uptake is still very sluggish. Only 25 pro bono mediations were arranged in a 14-month period starting in June 2006. There is a massive resource there waiting to be used. Non-lawyer pro bono community mediation schemes, too, are now flourishing across the country, but here, too, there is a need for stronger signposting between the suppliers and the market they want to serve.

The development of pro bono mediation faces a double challenge: the challenge of explaining what mediation is, and the challenge of fostering awareness that this service can be available free of charge. A recent LawWorks innovation has been a mediation clinic in north-west London, started last May, where pro bono advisers go once a fortnight to explain the mediation process to people with a problem. So far half a dozen people are seen each time, and all of them have welcomed the idea of mediation. If both sides agree and if the claimant cannot afford to pay a mediator’s fees, the dispute will be referred to a pro bono mediator. LawWorks will also try and provide a pro bono adviser to go along to the mediation to help the claimant. The aim now is to hold these clinics once a week. Five similar clinics are now either open or are planned for opening in the quite near future. There is also now a fledgling LawWorks telephone mediation service, with a 40% settlement rate in the 41 mediations so far conducted, supported by two training workshops to date in the art of telephone mediation.

Finally, and very importantly in the context of this lecture, there is the work that LawWorks does to encourage pro bono work in law schools. This effort was given a huge boost this year when the Law Society provided sufficient funding to enable LawWorks to employ a full-time students officer for the first time.

Traditionally, this involvement has taken three forms. First, in every third year since 2000 LawWorks has commissioned a survey which describes the scale of the take-up of pro bono schemes in law schools, and the different forms they may take. Next, LawWorks provides practical help for those law schools who want to establish pro bono advice clinics, but do not know where to start. And finally, LawWorks provides a comprehensive set of pro bono materials which law schools may adopt or adapt, so that their programmes can be both educationally and professionally robust.

In last year's lecture Lord Goldsmith said that nearly half our law schools did not have any pro bono element in their courses. He hoped that by 2007 75% of all law schools would be including a pro bono element, and that there would be a 100% take-up by 2008. Although I know that there have been developments over the last 12 months, we will have to await the 2009 survey before seeing the full picture. Even then there may, on past form, be a number of law school heads who are still not sufficiently literate to send back answers to the survey.

The appointment of the students officer, and the type of help that is now available, both give rise to optimism about future further advances in the law school sector.

But there is a lot of admirable work already going on. The College of Law, for instance, won the Attorney-General's pro bono award for law schools this year. Through its five branches it helped 292 clients last year in four legal advice centres with 975 volunteer advisers. 162 voluntary sector organizations received 736 of their student volunteers on placement. 197 students in their tribunal representation service represented 70 leaseholders and tenants and three tenants' associations. 40 community organizations, schools and prisons received Streetlaw presentations from 603 students. Their London pro bono organizer told me how these programmes are often seriously over-subscribed.

In addition to its four legal advice clinics the BPP Law School runs, among other things, a very successful legal translation service, a mediation friends project, an employment law telephone advice line, an environmental law project, and a law firm pro bono shadowing scheme. In preparing for this lecture, I talked to the pro bono organisers of those two law schools and I know that what they told me is typical of best law school practice throughout the country, particularly in Nottingham.

Any law school or university that is not as far advanced as these should not necessarily be thinking first of establishing a legal advice clinic, particularly if this is not needed in their area. There is plenty of valuable work that students can do in helping at an existing front line agency; or in Streetlaw sessions in schools or clubs; or in signposting clinics, rather than advice clinics; or in legal letter writing, researching and writing articles in support of legal charities, or vital translation work to help non-English speakers in need of legal help.

It is, however, essential that everyone who is involved in a law clinic, of whatever kind, or in any student initiative involving some form of engagement with frontline advice, must understand how to call upon in-depth help whenever it is needed, or how to refer the client to such help. What must never be said is "I am sorry you need more assistance than we can give" without also saying where to go for the further help the client needs.

A City solicitor has told me that the enthusiasm of today's top law students for pro bono community-based lawyering is so overwhelming that his firm is regularly asked by would-be trainees what it has to offer in this field. Things have changed vastly for the better since a depressing evening 20 years ago when I went to an Oxbridge college's law faculty dinner where most of the young people around me seemed to be concerned only with how they could use their legal skills to make more and more money for themselves. I rejoiced when the after dinner speech that night was made by a near contemporary of mine who was the senior partner of a criminal legal aid firm in Camden Town. He described a typical night when it was his turn for night duty. He

had to get up and go out, first at 1 am and then again at 5 am, to different police stations in North London to attend on people whose liberty had been temporarily curtailed by local constables. He is now a High Court judge. I hope that many in his audience never forgot that speech.

I have been saying a lot about LawWorks, but this should not detract from the immense amount of pro bono activity being carried on now within law firms on their own account, often involving legal and non-legal staff alike. A number of firms, for instance, have schemes whereby members of staff go out in their extended lunch hour to help children to read on a one-to-one basis in local schools. One firm runs a mentoring partnership with a local NGO to help African Caribbean students starting their GCSEs. Sponsored walks or balloon ascents or rowing events for legal charities, and involvement in environmental action days or community clean-up days or building and decorating projects devoted to worthwhile causes all bring together everyone in a firm or a local legal community, for a greater public good. Most of the larger firms have at least one person responsible for co-ordinating their pro bono efforts, sometimes at partner level. In a few there is a team of four or five who do nothing else. In a growing number of firms bonuses are now available for fine pro bono achievements, unpaid sabbaticals for pro bono activities are just being developed, and a set number of pro bono hours can be counted towards the annual billable hours expected of a fee-earner. The Law Society believes that pro bono services worth £338 million were performed by solicitors last year.

In preparing for this lecture I visited the websites of a number of large firms. They all tell a similar tale. Eversheds, for instance, say that their people do not just demonstrate their commitment to the community by spending time giving free legal advice. They have other skills and talents, and the firm has joined up with other community schemes to exploit those talents. Pinsent Masons say that corporate responsibility is enshrined in its values and is the driving force for a wealth of community-based initiatives inspired by their management and staff. Wragge & Co views its community programme as an investment driven by the desire of its people to use their skills to benefit others. Addleshaw Goddard speaks of the firm's long history of working with community-based projects. Allen and Overy, for their part, realistically identify five drivers behind their commitment to pro bono work: the professional obligation of every lawyer; the provision of an interesting way to develop legal skills; a good marketing opportunity; a good sales window for recruitment and retention; and the means of fostering a sense of community within the firm.

The range of activities described in the Allen & Overy 80-page annual pro bono report is typical what is now being done by law firms up and down the country: charitable giving (particularly to charities operating in deprived areas close to the firm's offices or involving members of the firm's staff); secondary school mentoring; long term links with one or more local law centres; free advice to a national charity; practical help for the homeless; governorships of local schools; work placements within the firm; help to the Citizen's Advice Bureau at the Royal Courts of Justice; secondments of legal staff to a human rights NGO; and free litigation services for "death row" prisoners in the Caribbean, leading to the instruction of senior silks in the Judicial Committee of the Privy Council who also give their services free.

In-house lawyers are also making a valuable contribution. So are the members of the Institute of Legal Executives (ILEX). So, too, are organisations like Law for All, where pro bono secondments from the private sector bolster the work of a publicly funded

advice provider. So, too, are Government lawyers. Last week's GLS Pro Bono ceremony demonstrated the breadth of the pro bono contribution now being made by Government lawyers in situations that are not all that dramatic, but where they are quietly engaged in righting wrongs and making a real practical difference to people's lives.

The scale of all this effort is now increasing exponentially, with barristers, solicitors, legal executives, paralegals and the non-legal staff of law firms all complementing what each other does. This National Pro Bono Week exists to pay tribute to all they do. The Attorney-General's two co-ordinating committees (one domestic and one international), and the energy of her pro bono envoy, Michael Napier, steer the ship along. Patricia Scotland, who became Attorney-General last June, has told me that she is just as committed as her predecessor was to driving this movement forward. The Law Society has just appointed a full time member of staff to promote pro bono work among solicitors throughout the country. The great conference in London on Saturday will round up a week packed with activities. If I were not here tonight, I would be judging a mock employment appeal being staged by FRU representatives at the Mansion House in the presence of the Lord Mayor of London. FRU has travelled a long way from that pub in Chancery Lane.

What, then, has been the driving force behind this major behavioural change among English lawyers who have not already devoted themselves to low paid publicly funded work? And where may it all lead?

As Michael Napier said in a lecture at Cardiff Law School last year, the US pro bono ethos has done a lot to inspire these developments. As early as 1969 the Professional Code of Responsibility of the American Bar Association contained the precept that "every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged." 20 years later, as a collective response to severe cutbacks in the already sparse provision of publicly funded legal aid, the ABA revised its Code so as to "recognize and support the professional obligation of all attorneys to devote a reasonable amount of time, but in no event less than 50 hours per year to pro bono and other public service activities that serve those in need, or improve the law, the legal system or the legal profession." The ABA originally wanted to make this obligation mandatory, but they were advised that this would be unconstitutional, smacking as it did of slave labour. These developments owed much to socially conscious lawyers who qualified in the 1960s - the Woodstock and Beatles generation - who were now moving to the top of their law firms.

Nearly 20% of the law firms subscribing to LawWorks are the London branches of US firms. Whether it is those branches, or the firms formed of a merger between a US firm and an English firm, US concepts of social corporate responsibility and the US idea that a firm can only recruit and retain the best law graduates if it can show them that it is not merely concerned with money-making, are now driving deeply into the legal professional consciousness of equivalent English law firms and sets of chambers. Last year Peter Goldsmith told this audience that a commitment to help people was not an add-on to a professional life, but an inherent part of it. This is what this movement is all about.

Perhaps I can bring the US ethos alive by referring to the resolution passed five years ago by the Board of Governors of the State Bar of California. It starts by referring to the increasingly dire need for pro bono legal services for the needy and disadvantaged.

It states that lawyers should ensure that every member of the public has equal redress to the courts for the resolution of their disputes, and has access to lawyers when legal services are necessary. It cites a passage in the Californian Business and Professions Code which says that it is the duty of a lawyer “never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed”.

And then it urges every attorney in the state to devote at least 50 hours per year to pro bono legal services to indigent individuals, or to relevant not-for-profit organizations. It urges all law firms and corporate employers to support this activity by allowing at least 50 hours pro bono work each year to be counted towards their lawyers’ billable hour requirements. It urges all law schools to promote and encourage the participation of law students in pro bono activities. And it urges all attorneys and law firms, particularly those attorneys who are precluded from directly rendering pro bono services, to contribute financial support to not-for-profit organizations that provide free legal services to the poor.

Nearly every other State Bar in the Union has adopted a similar rule. They usually mention the same minimum figure of 50 pro bono hours per lawyer per year. So long as each member of the firm, however senior, contributes his or her share, then all well and good. Pro bono work is far too important – and often far too difficult – to be left to the younger members of a firm, as sometimes, sadly, happens in practice.

In Jersey there is a similar tradition. The oath that is administered to advocates and solicitors when they are formally admitted to practice goes back at least to the 1771 Code of Laws for the island. It says:

Vous vous contenterez de gages et salaires raisonnables et assisterez aux veuves, pauvres, orphelins and personnes indéfendues.

All Jersey advocates and solicitors of less than 15 years call who are not in the public service must act without fee (unless the court makes a costs order in their favour) if it is their turn at the top of the legal aid roster and the Island’s bâtonnier allots them a case. In recent years these lawyers have each undertaken between 7 and 11 cases on this basis. Today their clients are not only widows and orphans, poor people, or the undefended. Their efforts may be subsidised by public funds if a case is unduly heavy. It would be nice to think that all Jersey lawyers also still content themselves with reasonable wages and salaries.

And now in this country we have the Pro Bono Protocol. This was launched four years ago with the endorsement of the Bar Council, the Law Society and ILEX. Many law firms and other legal bodies are now signatories, including a few law schools or their legal advice centres. It starts like this:

“At all stages throughout their career many lawyers regard Pro Bono legal work as an integral part of being a member of the legal profession, in providing justice and meeting unmet legal need.”

So where are we going, and where could we go? This lecture will, I hope, have demonstrated that there is plenty of spare capacity out there waiting to be used. In what follows I am not referring to those firms and sets of chambers which already do plenty of low paid publicly funded work. But there are still many of the 1,700 barristers pledging three days’ pro bono work each year whose offers are not often

taken up. There are hundreds of suitable barristers who have not yet given that pledge. At Clifford Chance half the lawyers now do an average of 27 pro bono hours a year. There are the firms that have not yet reached this average, let alone the 50, or 100, hours worked by some of their US counterparts. There are the firms that have not yet learned how to release the pro bono enthusiasm of their non-legal staff. There are the students in those law schools where pro bono lawyering is still in its infancy, or has not yet begun. There are the hundred trained mediators willing to resolve people's disputes without a fee, but never being asked to do so, with plenty more waiting in the wings. In Australia the National Pro Bono Resource Centre is campaigning for Australian lawyers to commit themselves to 35 pro bono hours each year.

And the need for help has never been so large: one pro bono organiser in London told me that what they do is just a drop in the ocean when it is compared with the need. I was a member of the Lord Chancellor's Public Legal Education Taskforce which reported four months ago on the scale of the need for public legal education; or public legal empowerment as we described it at one time. We told how public sector economists had calculated that unresolved law-related problems cost individuals and the public purse £13 billion in one three-year period, as people struggled along out of their depth in an increasingly complex world. Many did not even know that there was a legal solution to their troubles, let alone where they might find someone who could solve it for them. 6% of all civil justice problems lead to the loss of a home. 46% of evicted people end up in temporary accommodation at an average cost of £5,640 each. The costs associated with a single failed tenancy can be as high as £10,500.

It is not as if nothing is being done at present. Many splendid things are being done, many of them by pro bono lawyers. But there is an awful lot of stop-start and re-invention of wheels out there. On page 15 of our report we described a project on a Lambeth housing estate where law lecturers and solicitors and law students took part in discussions and role-play with members of the local community about ways to combat anti-social behaviour, poor housing conditions and youth unemployment. That brilliant project had to stop last December when Government funding was discontinued.

A similar fate befell an equally brilliant project in Southwark called "Preventing Possessions". This involved the project team in discussions not only with council tenants but also with members of local authority staff and others in a successful drive to reduce the number of evictions while increasing the flow of rental income. Although that project must have paid for itself in terms of the money it saved and the social harm it averted, no more Government money was available after its initial three-year term.

An evaluation report described how the exercise had identified a significant need for ongoing training which could not be met by a one-off project. It expressed concern that advisers with little or no knowledge of housing law continued to be the first port of call for tenants at real risk of homelessness. As access to legal aid continued to be restricted, good quality early intervention would arguably become even more critical. In nearby Lambeth three providers of housing advice would soon cease taking legal aid work: this was likely to have a knock on effect on the demand for legal aid services in Southwark.

Of course public need on this massive scale cannot be met by pro bono lawyers and law students alone, although they have an important contribution to make. In the

admirable work of the Citizenship Foundation in schools, and also in the Streetlaw law school schemes, law students are particularly good at communicating to younger audiences what the law is all about, often using mock trial scenes and role play to make it all more vivid.

It would be absurd to suppose that Government can respond immediately in a joined-up way to the Taskforce's call for action. While Government is getting its act together - and more than one department, particularly the Ministry for Communities, must be involved - I would like to see the Minister of Justice appointing his own PLE envoy, who will need to be every bit as charismatic as the Attorney-General's pro bono envoy. With a similarly powerful co-ordinating committee the PLE movement could be taken forward strategically in a well directed way pending the day when an appropriate centre may be set up with statutory powers in accordance with the Taskforce's recommendations.

So much for PLE. As for one-to-one legal advice, pro bono help must always be seen a vitally important add-on, and never as a substitute for publicly funded legal aid, and there can never be enough of it. In spite of all our contemporary worries, however, there is still a huge amount of public money - more than £2 billion of it - being pumped into legal help and representation. I have been saddened to watch the availability of civil legal aid being cut back so much in my professional lifetime, but this is a fact of life. It would be silly to think that any Government will do much to reverse this trend, even if some of the money currently available can be shuffled around more sensibly. There are no votes to be gained by paying a larger amount of public money overall to lawyers in private practice.

Legislation enacted this year will empower courts to direct that if pro bono lawyers win a case, their opponents should pay the costs that they would ordinarily have charged into a fund created to maintain and extend the pro bono movement. That is all to the good. There is also something more that government, and indeed other major clients in search of a lawyer, might usefully do. At present their procurement exercises often take into account the scale of a firm's commitment to diversity or to the environment. It would be nice if they were to place just as much weight on the scale of its commitment to pro bono work. If this were done, and if all the other developments mentioned in the final part of this lecture were to bear rich fruit, how much better things would be for our widows and orphans, our poor people (so far as they do not already qualify for publicly funded legal help), and for those who at present are lost in a complex world through which they all too often have no legal compass to guide them.

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