

A GUIDE FOR IN-HOUSE COUNSEL

Pro Bono Legal Work in Hong Kong



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Foreword

The phrase “*Pro Bono publico*”, or “for the public good”, has its origins in the worthy tradition of legal practitioners providing services to those unable to afford them. It goes beyond the mere provision of services for free. Ultimately, law is a public good that seeks to protect everyone’s rights, both as individuals and collectively. The philosophy of enabling access to legal services for everyone helps to promote the overall administration of justice, to make it a fair and just community for all.

Although access to justice is constitutionally guaranteed under Article 35 of the Basic Law of the Hong Kong Special Administrative Region, many individuals and entities face practical obstacles in obtaining such access. It is no secret that litigation is an expensive exercise. Legal services outside of litigation can similarly be unaffordable for many.

Pro Bono work benefits the community at many levels. It may assist individuals in the resolution of run-of-the-mill disputes in areas such as landlord and tenant or employment law. It may assist individuals charged with crimes, who may face punishment if convicted. It may assist non-profit organisations in their charitable work in the community. It may contribute to the development of jurisprudence in Hong Kong: see, for example, the Court of Appeal’s decision in *Leung Shuk Ling v Coroner* (2023) 4 HKLRD 264 at (77).

The provision of legal services *Pro Bono* is therefore of vital importance. In-house and corporate counsel in Hong Kong, no less than barristers and solicitors in private practice, have sought to play their part in the provision of such invaluable services to our community. Their example is to be commended and followed.

This edition of *Pro Bono Legal Work in Hong Kong – A Guide for In-house Counsel* is a timely update of the original publication in October 2018. It serves as a useful guide to the regulatory framework in which *Pro Bono* services may be provided in Hong Kong, drawing readers’ attention to the regulatory, insurance and practical issues which specifically affect the provision of *Pro Bono* services by in-house counsel, and providing instructive examples of successful initiatives which have been undertaken. As the Honourable Mr Justice Joseph Fok, PJ observed of the original edition, the guide is practical, informative and straightforward. I pay tribute to the work of Candy Au and Brenda Chong (the co-chairs of the ACC Hong Kong *Pro Bono*, Sustainability & Social Advocacy Committee) and all the contributors mentioned in the Acknowledgments, and trust that their efforts will assist and encourage those in-house and corporate counsel who generously volunteer their time to share their legal expertise with the less fortunate members of our community.

Yvonne CHENG

Judge of the Court of First Instance of the High Court
Hong Kong
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We hope you find this Guide insightful and contains useful information about establishing Pro Bono legal services, raising the awareness of accessing justice on an equal footing.

With many thanks,

Candy Au and Brenda Chong
Co-Chair of PSSA Committee
ACC HK



Glossary

ACC HK	The Association of Corporate Counsel Hong Kong, a chapter of the Association of Corporate Counsel
CCPL Symposium	Centre for Comparative and Public Law Symposium
Circular	The Law Society's Circular
Clinic	Community Legal Clinic
CLIX	A digital portal that connects Pro Bono lawyers with community impact organisations (and their clients) who need legal support
CSOs	Civil Society Organisations
CSR	Corporate Social Responsibility
DEI	Diversity, Equity and Inclusion
Employed Solicitor	Practice Direction N defines an "employed solicitor" as a solicitor employed by a non-solicitor employer
ESG	Environmental, Social and Governance
FLR	Foreign Lawyers Registration Rules (Cap. 159S)
Foreign Lawyer	A foreign-qualified lawyer
Guide	Pro Bono Legal Work in Hong Kong – A Guide for In-house Counsel
Justice Centre	Justice Centre Hong Kong
KWM	King & Wood Mallesons
Law Society	The Law Society of Hong Kong
Law Society's Indemnity Scheme	The Hong Kong Solicitors Professional Indemnity Scheme, a statutory scheme which is managed and administered by the Hong Kong Solicitors Indemnity Fund Limited
Legal Advice	Legal advice and representation of clients

NGO	Non-governmental organization
Pro Bono HK	Pro Bono HK Ltd
Pro Bono Services	Legal Advice and Professional Assistance
Professional Assistance	A lawyer's legal and professional knowledge such as providing legal information, legal research, training on legal issues, policy and advocacy work
PI	Professional Indemnity
Professional Conduct Guide	The Hong Kong Solicitors Guide to Professional Conduct
Recognition Scheme	Recognition Scheme for Provision of Pro Bono Legal Services
RFL	Registered Foreign Lawyer in Hong Kong as defined in Section 39A of the Legal Practitioners Ordinance (Cap. 159)
Rule 7 Exemption	Exemption sought by a Hong Kong-qualified Solicitor, pursuant to Rule 7 of the Solicitors (Professional Indemnity) Rules (Cap. 159M), from having to maintain indemnity in accordance with Rule 6 of the Solicitors (Professional Indemnity) Rules
SoCo	The Society for Community Organisation
Solicitors	Hong Kong-qualified solicitors regulated under the Legal Practitioners Ordinance (Cap. 159)
USM	Unified Screening Mechanism



1. Introduction

- 1.1 Pro Bono plays a critical role in safeguarding equality and access to justice in the legal system. It provides legal services to those who cannot afford legal assistance, usually from marginalised and underprivileged communities as well as those who do public goods, such as non-governmental organisations and charities. It also supports law and policy reforms for the betterment of all. More and more lawyers see Pro Bono work as an integral part of their practice beyond the moral duty to uphold access to justice and give back to one's local community. Engaging in Pro Bono work offers professional development opportunities such as strengthen skills in client and matter management, interviewing, legal research and drafting. It also allows lawyers to broaden their professional networks and develop expertise in new and emerging legal areas or a secondary specialisation. Pro Bono is no longer a corporate social responsibility initiative within law firms. Now it is an integral part of organisations' social impact strategy and measured as part of Environmental, Social and Governance (ESG) frameworks.
- 1.2 While there are no definitive statistics in Hong Kong on the total number of in-house counsel, it is a growing sector in the legal profession. The Law Society of Hong Kong ("**the Law Society**") estimates that there are around 4,000 solicitors with practicing certificates working as in-house counsel in Hong Kong, constituting about a quarter of the legal profession.¹ In-house counsel are valuable but underutilised Pro Bono resources who could offer significant support to the Hong Kong community, including local charities and disadvantaged and marginalised individuals who are unable to access Legal Aid. In addition to crucial legal drafting, research, commercial and presentation skills, many in-house counsel have expertise in areas such as contract law, employment arrangements, legal and business structures, property and leasing, risk management, insurance and intellectual property. These issues are typically in-demand legal services for charities and NGOs. Further, the core legal skills of in-house counsel could be utilised to assist disadvantaged individuals resolve their disputes or to run community trainings to increase legal knowledge. If each in-house counsel in Hong Kong were to undertake just 5 hours of Pro Bono work each year, that would equate to 20,000 hours of valuable legal support available to the community. And of course, in-house counsel also personally benefit through their own professional development that Pro Bono work offers.
- 1.3 Internationally there has been significant growth in Pro Bono work being done by in-house counsel and it is becoming increasingly institutionalised. For example, Australia has an annual 20 hour aspirational Pro Bono target that in-house lawyers can sign up to.² The Pro Bono Institute in America also runs a Corporate Pro Bono Challenge where Chief Legal Officers commit to supporting at least half of their legal staff to participate in Pro Bono each year.³
- 1.4 This edition of *Pro Bono Legal Work in Hong Kong – A Guide for In-house Counsel* ("**the Guide**") is edited by DLA Piper, Hong Kong and the members of the Association of Corporate Counsel Hong Kong. It sets out the business case for a company to establish a Pro Bono program, as well as considerations and tips for in-house legal teams when developing their own programs. The Guide concludes with some case studies and opportunities with NGOs for in-house counsel to support.

¹ The Government of Hong Kong Special Administrative Region. (2024, September 12). *Speech by SJ at Alb Hong Kong in-house legal summit 2024 (English only) (with photo)*. Press Releases. <https://www.info.gov.hk/gia/general/202409/12/P2024091200259.htm>

² See Australian Pro Bono Centre. (n.d.-b). *In-house legal teams and Lawyers Pro Bono Portal*. Pro Bono Providers. <https://www.probonocentre.org.au/provide-pro-bono/in-house/>

³ See Pro Bono Institute. (2023, June 30). *Corporate Pro Bono: Enhancing the Pro Bono Culture of In-house Legal Departments*. Projects. <https://www.probonoinst.org/corporate-pro-bono/>

What is ‘Pro Bono’?

- 1.1 Pro Bono comes from the Latin phrase ‘Pro Bono publico’ which means ‘for the public good’. Not all work that lawyers do for free or at a reduced rate will qualify as Pro Bono work. In the legal context, it generally means the provision of free legal services to those who would not otherwise be able to access legal assistance or representation, or whose matter raises an issue of public interest.
- 1.2 Pro Bono services can be provided in various ways, including:
 - providing legal advice and representation to non-governmental organisations, charities and members of the marginalised community;
 - participating in free legal advice schemes run by local organisations (often called legal clinics);
 - conducting legal research to support law reform campaigns;
 - writing policy papers on pertinent public interest topics or law reform; and
 - organising and presenting legal training workshops where the purpose is strengthening legal knowledge or skills or civil society or marginalised communities.
- 1.3 In this Guide, a distinction is made between legal advice and representation of clients (“**Legal Advice**”), and that of a broader set of work that draws on a lawyer’s legal and professional knowledge such as providing legal information, legal research, training on legal issues, policy and advocacy work (“**Professional Assistance**”). This distinction is important because of Hong Kong’s regulatory regime that applies to the provision of Legal Advice by lawyers.
- 1.4 In this Guide, **Pro Bono Services** means both Legal Advice and Professional Assistance in a general sense, but as discussed below, given the current Hong Kong regulatory regime, in-house counsel cannot provide Legal Advice directly to clients (other than their employers) on their own account.
- 1.5 Fortunately, notwithstanding Hong Kong’s regulatory challenges, there are various ways that in-house counsel can get involved in providing Professional Assistance on a Pro Bono basis. The scope of those services and the regulatory barriers to in-house counsel providing Legal Advice, are addressed in detail in sections 2 to 4 of this Guide.



2. Why establish an in-house Pro Bono program?

The business case for establishing a Pro Bono program

2.1 Legal services for the public good has always been actively advocated in Hong Kong by the legal professions, professional associations, non-profit organisations and non-governmental organisations who have been instrumental in organising various programs, events and activities promoting Pro Bono services. Pro Bono legal services was further advocated by the Government of the Hong Kong Special Administrative Region:

- The Chief Secretary for Administration, Mr Chan Kwok-ki, stressed at the announcement of results of the 2020-22 Recognition Scheme for Provision of Pro Bono Legal Services (the “**Recognition Scheme**”) that, “..... *with the rule of law being the cornerstone and core value of Hong Kong’s success, the Government is committed to promoting Pro Bono legal services to enhance access to justice by the members of the public.....*”⁴
- In the speech by the Secretary of Justice, Mr Paul Lam, SBS, SC, JP at the Law Society’s Pro Bono and Community Service Award Presentation Ceremony 2023, he commented that “..... *the legal profession in addition to discharging your professional duties diligently and competently, your commitment to give back to society by performing Pro Bono legal service will certainly enhance access to justice. When some less privileged groups in the community need legal assistance but cannot afford to engage lawyers on their own, Pro Bono service can fill the gaps of these needs.....*”⁵

2.2 It is no surprise therefore that the first reason why in-house teams should establish Pro Bono programs is because it is, morally, the right thing to do. Undertaking Pro Bono work is a professional obligation of lawyers to uphold access to justice for all.

2.3 However aside from the professional obligation, there are other benefits for in-house teams and companies. These benefits demonstrate the business case for establishing a structured Pro Bono program:

- **Pro Bono supports ESG strategies:** ESG is commonly known as a framework to assess an organisation’s business practices and performance in the issues of sustainability, social impact and good governance. ESG is widely accepted by global corporations as a core strategy to business operations and replaces what was formerly known as “corporate social responsibility”. Pro bono is a means of achieving social impact by using the legal skills of in-house teams to improve outcomes in local communities, and often then, a stronger business environment. It also provides a specialised and highly desirable outlet for employee volunteerism and, usually, complements the organisation’s charitable giving and other philanthropic activities.

While there is no mandatory ESG reporting on Pro Bono work undertaken by corporates,⁶ Pro Bono legal work may be considered a key element in ESG strategies. Integrating Pro Bono legal services into ESG strategies and indeed creating opportunities where a company’s actions benefit both the company and the community (known as shared value) is considered best practice.

- **Pro Bono connects with diversity initiatives:** Pro Bono legal services initiatives will certainly help promote an organisation’s diversity, equity and inclusion strategy. Marginalised communities are often the under-represented minorities in the community. Their needs and situations are often neglected. Pro Bono projects bring lawyers to work with marginalised communities. They are opportunities for lawyers to have direct interaction and obtain first-hand knowledge. For example, Pro Bono work undertaken by in-house counsel for an NGO supporting marriage equality can help them to learn more about the discrimination and unfair treatment faced by the LGBT+ community every day due to lack of recognition of their relationships.

4 See The Government of the Hong Kong Special Administrative Region. (2023, July 12). *CS commends legal professionals for providing Pro Bono legal services to community*. Press Releases. <https://www.info.gov.hk/gia/general/202307/12/P2023071200254.htm>

5 See Department of Justice, the Government of the Hong Kong Special Administrative Region. (2023, December 13). *Speech by SJ at law society of Hong Kong’s Pro Bono and Community Service Award Presentation ceremony 2023 (English only)(with photo)*. Community Engagement, Speeches, Articles and Letters. https://www.doj.gov.hk/en/community_engagement/speeches/20231213_sj1.html

6 See MacLennan, J. F. (2024, January 29). *Pro Bono and ESG: What role do Pro Bono legal services have – or should have – in the S OF ESG?*. International Bar Association. <https://www.ibanet.org/pro-bono-and-esg>

- **Pro Bono enhances corporate branding:** Pro Bono legal services can enhance an organisation's corporate brand as well as promote an organisation's culture and values. A positive corporate reputation can help attract high quality talents, particularly value-driven millennials who are seeking employment at companies making a positive social impact.
- **Pro Bono helps recruiting talents:** Increasingly potential hires are assessing employers by their employee value proposition (EVP) and corporate culture. Being able to offer potential talent opportunities to engage in Pro Bono work not only demonstrates a company's – and more specifically, a legal team's – commitment to social impact but it also shows an investment in the professional development of its people. A socially minded corporate culture will help to attract engaged and like-minded recruits.
- **Pro Bono improves employee retention and morale:** Pro Bono is one way to increase employees' engagement, job satisfaction and general morale. It enables legal staff to use their skills to give back,

knowing that their unique professional skills have a direct impact on their communities. This in turn nurtures team culture, builds loyalty and increases job satisfaction.

- **Pro Bono supports professional development:** Pro Bono projects offer in-house counsel the opportunity to build their professional skills. This might be building their legal knowledge such as advising a NGO in a new area of law, or strengthening their day-to-day business skills such as presentation, communication and time management.
- **Pro Bono broadens relationships and networks:** Pro Bono broadens a legal department's external network and builds relationships with peer organisations. It is an effective way of generating positive public relations and showcasing a legal department's unique expertise.



3. What regulatory and insurance issues apply to Pro Bono services in Hong Kong?

3.1 There are several issues in-house counsel must consider before engaging in Pro Bono Services in Hong Kong, particularly around the provision of Legal Advice. These issues must be understood and ideally addressed in your organisational Pro Bono policy to enable appropriate decisions to be made about which projects or work to take on. The primary factors to consider are the regulatory and insurance requirements applicable in Hong Kong to legal practitioners, and the restrictions on the giving of Legal Advice, including professional obligations and ethics.

3.2 In-house counsel in Hong Kong are not required to be admitted to practice as solicitors or barristers in Hong Kong, or to hold local practicing certificates. This also implications for the type of Pro Bono Services which in-house counsel can offer to external clients.

Practicing certificates

3.3 The scope of Pro Bono Services an in-house counsel can provide will differ depending on whether the in-house counsel is a Hong Kong-qualified solicitor ("**Solicitor**") or a foreign-qualified lawyer ("**Foreign Lawyer**").

3.4 Under Hong Kong law, and in broad terms, only four groups of people can practice Hong Kong law. These are:

- Solicitors in Hong Kong law firms or private practice,
- Barristers admitted to the Hong Kong Bar,
- Government lawyers, and
- employed solicitors.

3.5 In order to practice Hong Kong law, section 7 of the Legal Practitioners Ordinance (Cap. 159) requires that all Solicitors must be on the roll of solicitors, not be suspended from practice, have a current practicing certificate, and comply with or be exempted from the indemnity rules. In-house counsel who are Solicitors are "employed solicitors".⁷ They are only allowed to work for their employer and its related body.⁸ They are exempted from compliance with the Law Society's indemnity rules with which they would otherwise have to comply like Solicitors in law firms or in private practice. This means that employed solicitors are not required to have and maintain indemnity under the Law Society's Indemnity Scheme. It is left to the discretion of the employer as to whether to purchase its own Professional Indemnity ("**PI**") cover in respect of the employed solicitor's work. Given that employed solicitors can only work for their employer and its related body, it is uncommon for a company to extend the PI coverage to the work its in-house counsel do for the public.

3.6 The lack of PI creates an obstacle for in-house counsel/employed solicitors to provide Legal Advice to the public. Rule 6 of the Solicitors (Professional Indemnity) Rules (Cap. 159M) states that every solicitor who is, or is held out to the public as, a solicitor in practice in Hong Kong shall be required to have and maintain indemnity insurance. In-house Counsel/employed solicitors cannot provide Legal Advice to the public without PI unless they obtain an exemption from the Law Society Council under Rule 7 of the Solicitors (Professional Indemnity) Rules (Cap. 159M) ("**Rule 7 Exemption**").

⁷ See Practice Direction N – Employed Solicitors. http://www.hklawsoc.org.hk/pub_e/professionalguide/volume2/default.asp?cap=24.15

⁸ Where the employer is a company, a "related body" of the employer means a subsidiary, an associated company or the holding company of the employer. Where the employer is a partnership, a "related body" of the employer means a partnership or a company beneficially owned or controlled by the employer.

- 3.7 Aside from the restriction of who they can work for and the PI issue above, an employed solicitor acting in the course of their employment for their employer is in the same position as a private practice solicitor acting for a client in every other aspect in so far as having to comply with their professional and ethical obligations as Solicitors. Accordingly, Principle 2.08 of the Hong Kong Guide to Professional Conduct ("**Professional Conduct Guide**") states that a Solicitor who works for a non-solicitor employer must comply with the Solicitor's Practice Rules (Cap 159H), Practice Directions and the rules and principles of professional conduct. The general conduct rule is a solicitor shall not, in the course of practicing as a solicitor, do or permit to be done on his behalf anything which compromises or impairs or is likely to compromise or impair (a) his independence or integrity, (b) the freedom of any person to instruct a solicitor of his choice, (c) his duty to act in the best interests of his client, (d) his own reputation or the reputation of the profession, (e) a proper standard of work, or (f) his duty to the court.⁹
- 3.8 Foreign Lawyers working as in-house counsel are unable to offer Legal Advice to the public and only Registered Foreign Lawyers ("**RFLs**") are able to do so. If a Foreign Lawyer wishes to provide legal advice to the public (and not their employer) as a practitioner of foreign law, he must register with the Law Society as a RFL.¹⁰ RFLs can be employed as a foreign legal consultant by a Hong Kong solicitor so long as the number of foreign lawyers in the firm is not greater than the number of Hong Kong solicitors. RFLs are prohibited from employing or joining into partnership with Hong Kong solicitors.¹¹ They cannot offer their services to the public as a practitioner of foreign law in a capacity other than as a practitioner in a foreign firm or a Hong Kong firm. Foreign Lawyers employed as in-house counsel are unable to register as an RFL with the Law Society.
- 3.9 Furthermore, section 12 of the Foreign Lawyer Registration Rules ("**the FLR Rules**"), prohibits all Foreign Lawyers, whether registered or not, from advising on Hong Kong law.¹² This can impose limitations on the Pro Bono Services that foreign lawyers can engage in, as often considering or advising on Hong Kong law is involved. However, the unregistered Foreign Lawyer can still meaningfully engage in Pro Bono work by assisting or partnering with Hong Kong-qualified lawyers such that all Hong Kong law-related work is done by a

Hong Kong Solicitor (either within the in-house legal team or by an external law firm partnering with the corporation on Pro Bono services). Care must be taken to ensure that the unregistered Foreign Lawyer does not effectively offer legal services to the public as this will be in breach of the FLR Rules.

Professional indemnity insurance

- 3.10 Prior to undertaking any Pro Bono services which would be Legal Advice, in-house counsel are encouraged to consider the potential risks of giving Professional Assistance and ensure they have appropriate PI coverage in place through the means described in this section. This is important because every solicitor must have compulsory indemnity as a matter of Hong Kong law, and it is, therefore, a regulatory requirement. As said in Circular 21-367(PA) published by the Law Society, the Law Society Council adopts the view that if a solicitor (including an in-house counsel) is held out to the public as providing pro bono services and does so with some degree of formality and regularity, as opposed to an informal one-off basis, such solicitor will be carrying on a Practice falling within the scope of Rule 6 of the Solicitors (Professional Indemnity) Rules. Importantly, even if in-house counsel are not providing Legal Advice and are only providing general assistance on a Pro Bono basis, it is strongly encouraged that you must provide your client with comfort that you are insured for the services being provided, whether or not that is Legal Advice or other Professional Services.
- 3.11 For Solicitors, rule 6(1) of the Solicitors (Professional Indemnity) Rules (Cap 159M), requires that every solicitor who is, or is held out to the public as, a solicitor in the business of practicing as a solicitor, in Hong Kong shall be required to have and maintain indemnity, subject to the Rule 7 Exemption. Indemnity in this context refers to the Law Society's Indemnity Scheme which provides indemnity against loss arising from claims in respect of any civil liability incurred by a solicitor in connection with his or her practice. For all claims first made on or after 1 October 2019 against persons who are entitled to be provided with indemnity, the limit of indemnity is HKD20 million in respect of any one claim. This mandatory scheme only applies to Solicitors and Hong Kong law firms. In-house legal teams of corporations are not able to participate, and as a result, they are not covered.

⁹ Solicitors' Practice Rules (Cap. 159H), s 2

¹⁰ Legal Practitioners Ordinance (Cap. 159), s 39A.

¹¹ Legal Practitioners Ordinance (Cap. 159), s 50B.

¹² Foreign Lawyers Registration Rules (Cap. 159S), rule 12

Applying for a Rule 7 Exemption and Circular 16-609(COM)

- 3.12 So while law firms in Hong Kong are required to have PI insurance in place for all services, including Pro Bono services, as discussed above, the same requirement does not apply to employed solicitors. Employers of in-house counsel can obtain a private policy, but this does not seem to be a common practice. Therefore, in the majority of cases, in-house counsel do not have PI insurance coverage in Hong Kong. Even where an employer of an in-house lawyer chooses to purchase PI cover, this will generally only cover work which that lawyer conducts on behalf of the corporation, and generally not cover Legal Services or Professional Assistance provided to Pro Bono clients.
- 3.13 This means that any in-house counsel wanting to offer services to external clients (i.e. not their employer) should first check their corporation's own insurance policy and the scope of that coverage. If it does not cover external clients or the kind of services they wish to provide on a Pro Bono basis, then they should obtain a separate policy or extra coverage under their existing policy.
- 3.14 In the absence of that, there are other limited options available such as partnering with a law firm on the Pro Bono project or matter, and request that the law firm's PI cover extend to cover the work of in-house counsel, and all work will be done under the supervision of the law firm (or subject to whatever other restrictions may apply under the firm's policy).
- 3.15 In very limited circumstances, where you are providing Professional Assistance to an NGO that has its own insurance, you may also consider whether it is possible to have their policy extended to the in-house legal team, as some policies cover volunteers. Importantly, this should be explored and documented prior to providing any Pro Bono services.
- 3.16 As noted above, Rule 6 of the Solicitors (Professional Indemnity) Rules (Cap 159M) requires all solicitors in practice to maintain indemnity. The Law Society Council can however grant, on such terms as it sees fit, an exemption to the compulsory requirement to maintain indemnity under Rule 7 of those rules (that is, the Rule 7 Exemption). In 2016, the Law Society issued Circular Circular 16-609(COM) introducing a new procedure for obtaining a Rule 7 Exemption.
- 3.17 Circular 16-609(COM) states that if "*a solicitor is held out to the public as providing Pro Bono services and does so with some degree of formality and regularity, as opposed to an informal one-off basis*" and "*if the Pro Bono legal services are offered in the solicitor's personal capacity and not as part of the practice of his or her law firm*" then this equates to the solicitor carrying on practice within scope of Rule 6 of the Professional Indemnity Rules. Therefore, such services cannot be provided unless covered by the Law Society's Indemnity Scheme. As discussed above, this causes an issue for in-house counsel who are generally working for organisations who cannot participate in the Law Society's Professional Indemnity Scheme, and consequently they cannot meet the requirements of Rule 6.
- 3.18 Accordingly, the only way for in-house counsel who are Solicitors to provide legal advice to the public on a Pro Bono basis on a regular and formal basis, is to obtain an exemption from the Law Society Council. The Rule 7 Exemption allows a Solicitor to provide Pro Bono legal services without having to be covered by the Law Society's Professional Indemnity Scheme, but as one of the conditions for obtaining the exemption, the Solicitor will be required to have PI insurance which is equivalent to the coverage provided by the Law Society's Professional Indemnity Scheme.

3.19 This provides flexibility for a Solicitor, and in particular in-house counsel, who want to provide Pro Bono Services. However, the reference to ‘Solicitor’ in this context means a Hong Kong-qualified lawyer and not a Registered Foreign Lawyer. Therefore, the exemption will only apply to in-house counsel, who are also Hong Kong-qualified lawyers.

3.20 The process to apply for a Rule 7 Exemption involves the following:¹³

- The applicant must complete a prescribed application form, available at the Law Society Registry;
- Pay HKD1,000 per organisation that he or she does Pro Bono work for;
- Provide a certified copy of the full set of professional indemnity insurance policy of the organisation;
- Provide a Statutory Declaration declaring that PI insurance of the organisation is in a manner and to an extent similar to that provided by the Professional Indemnity Rules; and
- Submit the above to the Consents Committee of the Law Society.

3.21 According to Circular 16-609(COM), the Law Society shall consider the following when assessing an application for exemption:

- Whether the Pro Bono work breaches any laws, rules and regulations;
- Whether the organisation has a “system” in place which is acceptable to the Law Society. On this point the Law Society will take into account whether the organisation has mechanisms in place to assist the applicant to comply with applicable professional requirements, including policies in relation to confidentiality, conflicts of interest and record keeping; and
- Whether the organisation charges the public a fee for the Pro Bono services and whether the applicant provides his or her services for free.

3.22 To obtain the Rule 7 Exemption, a Solicitor must apply to the Consents Committee of the Law Society, and once granted, the exemption will be valid for one year only, to be reassessed on a yearly basis.

3.23 The Rule 7 Exemption is a useful but it still presents formidable challenges to in-house counsel wishing to provide legal advice directly to the public, given the conditions required to be fulfilled and maintained to obtain the exemption. The exemption, if granted, only allows the solicitor in their personal capacity to provide

Pro Bono services, but there is still a burden on the organisation through which the in-house counsel is providing services (eg an NGO, where the recipient of legal services is the NGO’s “client”) to obtain PI insurance and put the required “systems” in place, which can be a heavy and costly burden. It is also something which is not entirely within the control of the in-house counsel. Further, as noted above, only Hong Kong-qualified lawyers are able to apply.

3.24 There are insurance providers in the Hong Kong market who sell insurance products that could fulfil the requirements of the Law Society. Interested parties should contact their insurance broker or other in-house legal teams who have established Pro Bono programs.

Competence and quality service

3.25 Delivery of Pro Bono Services should be treated the same as any other legal work and the same professional obligations apply. Several key issues are noted below.

3.26 All Pro Bono services must be delivered to clients at the same quality and standard that in-house counsel would deliver legal services to their employers. This includes in compliance with the applicable professional rules and regulations which apply to the in-house counsel.

3.27 Rule 6.01 of the Professional Conduct Guide imposes a duty on solicitors to act competently. Most other jurisdictions across the world have a similar requirement and it forms part of a lawyer’s inherent fiduciary duty to their client, therefore foreign qualified lawyers would similarly be subject to this requirement. This duty includes acting only where the lawyer has the knowledge and skill to perform the services to the high standard a client would expect of a competent solicitor, to only undertake work which the lawyer has adequate time to complete, and to keep the client informed of the progress of the matter.

3.28 In some circumstances, in order to provide competent advice, the in-house counsel will need to obtain tailored training or to seek assistance from a law firm or barrister who has specialist knowledge on the relevant area of law. Pro Bono services should never be undertaken where in-house counsel is (i) unfamiliar with the area of law, (ii) does not have the capacity to do the job satisfactorily or is not sufficiently qualified or experienced to do it, or (ii) cannot be delivered to the standard required by the applicable professional rules and regulations.

¹³ See Circular 16-609(COM) of the Law Society of Hong Kong

Champerty and maintenance

- 3.29 Whilst Pro Bono legal advice is generally done for no payment, there are circumstances where such work may constitute a contingency fee arrangement or a success fee arrangement. Such arrangements fall under the umbrella of champerty and maintenance, which is both a tort and a criminal offence, punishable with imprisonment, in Hong Kong.
- 3.30 These types of arrangements will generally be irrelevant for most of the Pro Bono services which in-house counsel are able to assist with, particularly as in-house counsel are not looking to generate fees from the provision of legal services in the way that private practice solicitors do. However, it is important to understand the restrictions and to use caution, if the partner law firm or barrister you are working with on Pro Bono services is considering such an arrangement with the client.
- 3.31 Rule 4.17 of the Professional Conduct Guide prohibits solicitors from entering into contingency fee agreements in contentious matters which involve instituting legal proceedings save where permitted under the law, eg under the Arbitration Ordinance (Cap. 609).
- 3.32 A contingency fee agreement is defined in the Professional Conduct Guide as “any arrangement whereby a solicitor is to be rewarded only in the event of success in litigation by the payment of any sum (whether fixed, or calculated either as a percentage of the proceeds or otherwise). This is so, even if the agreement further stipulates a minimum fee in any case, win or lose.”

- 3.33 It is possible to enter into contingency fee arrangements in matters which do not involve litigation. However, the case law only refers to recovering fees actually incurred. The Courts have not looked favourably on solicitors who claimed a fee calculated as a percentage of a settlement sum, seeing this as taking advantage of a client.
- 3.34 In relation to Pro Bono matters, even if there are no charges for professional fees, it is generally accepted practice to claim disbursements from the client. Although, the client should be made aware of what these are at the outset of the matter and be documented in the engagement letter.

Conflicts of interest

- 3.35 In-house counsel need to ensure that any Pro Bono services they provide do not create a potential or actual conflict of interest either with their employer or with their own interests. Chapter 9 of the Professional Conduct Guide outlines the requirements for Hong Kong-qualified solicitors in relation to conflicts of interests and foreign qualified lawyers would be subject to similar requirements under their home jurisdiction rules and regulations. If there is a potential for conflicts, or an appearance of conflicts, these should be carefully examined, discussed and steps taken to mitigate the likely risks or depending on the circumstances, it may be better to err on the side of caution and to find other Pro Bono opportunities.

4. How to establish a Pro Bono program or project?

4.1 The key steps for establishing an in-house Pro Bono program are outlined below, and must be prepared in light of the regulatory issues, outlined in Section 3 above.

4.2 The time and resources invested in each step will depend in large part on the size and culture of the organisation and its legal team. For example, it might be a relatively quick process to reach the stage of preparing a proposal for the program or project if an in-house legal team is partnering with another organisation, or if a member of the legal team has identified a suitable project already.

4.3 Whilst it is ideal to establish a formal Pro Bono program for the reasons above, lawyers within an organisation can still undertake Pro Bono services independently on an informal basis subject to compliance with applicable organisational policies or controls on volunteer work and the regulatory requirements in Hong Kong.

4.4 Key steps for establishing an in-house Pro Bono program:

- Establish organisational support;
- Scope the proposed program;
- Prepare a proposal;
- Develop a draft Pro Bono policy;
- Obtain approval for the proposal and Pro Bono policy; and
- Provide Pro Bono legal assistance.

4.5 Each of these items is discussed in turn, below.

Establish organisational support

4.6 Before a Pro Bono program can be established, there should ideally be organisational support for the initiative from key stakeholders including the Chief Executive Officer, General Counsel/ Head of Legal and others such as the Head of Sustainability (or equivalent). Support at the highest levels of an organisation is critical to ensure there is enthusiasm for, and encouragement of, Pro Bono work. If gaining buy-in is challenging, it may help to identify a senior member of the team to champion the program or link the Pro Bono program with the broader ESG/social impact initiatives.

4.7 Organisational support is particularly important to ensure in-house counsel can juggle priorities between their daily work duties and Pro Bono work, especially if the Pro Bono project means they are out of the office for a few hours.

Scope the proposed program

4.8 To develop a program proposal, start by learning about the Pro Bono services the in-house legal team may be interested in, and capable of, undertaking. It is also recommended that you review your organisation's sustainability strategy and seek views from relevant stakeholders as to how Pro Bono work by the legal team could support existing initiatives.

4.9 As a starting point, it can be useful to survey colleagues in the legal team. Some suggested questions/areas include:

- Whether anyone undertakes Pro Bono work in a personal capacity outside of work. If they do, explore whether those lawyers might like to involve their colleagues in that existing Pro Bono initiative;
- What social justice issues/topical areas are colleagues interested in supporting;
- What company's social impact programs does the team already participate in and whether the legal team could add to or build on those by providing Pro Bono services;
- What Pro Bono programs are run by external panel law firms, and are there opportunities to get involved in those existing programs; and
- The legal skills and areas of expertise that exist within the in-house legal team and how they might be used in a Pro Bono context.

4.10 This does not have to be a formal survey, but could take the form of short discussions in a team meeting.

4.11 As part of the scoping, you may also wish to:

- Seek ideas from other teams within the organisation, including the Social Impact/Sustainability team to identify existing community relationships that might be strengthened by the offer of legal assistance;
- Discuss opportunities for Pro Bono partnering with Pro Bono coordinators from external panel law firms;
- Explore partnering with legal assistance organisations, such as Pro Bono referral bodies or established legal clinics/programs; and
- Speak with other in-house legal teams who have established Pro Bono programs.

Prepare a proposal

4.12 The next phase is to develop a proposal that will be submitted to the General Counsel, CEO and/or the Board (as appropriate). The proposal should:

- explain the role of Pro Bono services in the context of the organisation's commercial objectives and ESG strategy;
- outline the benefits of an in-house Pro Bono program for the organisation and the organisation's lawyers;
- describe the Pro Bono services that will be undertaken as part of the Pro Bono program;
- include measurable objectives for the program, such as team member participation rates or hour targets, perhaps increasing over a period;
- state the required resource and time commitment;
- confirm that regulatory requirements have been considered and that a Pro Bono Policy has been drafted to support the program (see further below); and
- reference any other issues that are relevant to the organisation, or the industry in which it operates. For example, there may be areas which could cause reputational risks or conflicts of interest etc.

Develop a draft Pro Bono policy

4.13 A draft Pro Bono Policy should be developed in conjunction with the program proposal. See Appendix: A Sample Pro Bono Policy for reference.

4.14 An in-house Pro Bono Policy should include:

- an outline of why the organisation should have a Pro Bono program, its objectives, and how it complements the organisation's broader ESG strategy;
- a description of the program, including key projects, priorities or focus areas;
- statements that confirm the organisation's expectations of in-house counsel participating in the Pro Bono program. For example, that Pro Bono services should be performed to the same standard as in-house legal work;

- a definition of 'Pro Bono services', which may include limitations on what the organisation is comfortable assisting with, and accommodate the various distinctions arising from the regulatory issues discussed in section 3 above;
- a framework for coordinating the program, eg an internal Pro Bono coordinator;
- the aspirational participation rate and/or hour commitment for team members (if set);
- an approval/rejection process for requests for Pro Bono assistance, including identifying potential conflicts, business and reputational risks;
- protocols for ensuring that any regulatory requirements are met and addressing issues of insurance and risk mitigation;
- record keeping and file management processes;
- guidelines about spending time on Pro Bono services during normal office hours;
- any reporting and governance obligations; and
- a mechanism for tracking and measuring the impact (internally and externally) of the organisation's Pro Bono services, which may be helpful in demonstrating the case for investing time in Pro Bono activities.

Obtain approval for the proposal and Pro Bono policy

4.15 Once the proposal and draft Pro Bono Policy have been prepared, they should be submitted to the General Counsel/CEO and then the Board (where required) for approval.

4.16 The Pro Bono Policy should then be formalised in line with the organisation's usual processes.

Provide Pro Bono legal assistance

4.17 Once the proposal and Pro Bono Policy have been approved, necessary internal systems should be established (eg nominating a Pro Bono coordinator, promoting the policy internally etc.) and regulatory requirements satisfied. Once these are all cleared, the in-house legal team can begin looking for suitable opportunities to provide Pro Bono legal assistance.

Formalising the engagement

4.18 When an in-house counsel is directly engaged by a Pro Bono client, it is important to enter into an agreement setting out the terms on which Pro Bono services will be provided, or what other services are to be provided. This agreement will usually take the form of a letter of engagement. The letter must comply with the regulatory requirements in Hong Kong under the Professional Conduct Guide. An engagement letter is important to not only scope the work which will be done for the Pro Bono client, but also to make clear the areas which are excluded from the scope of services to be provided. Therefore it is also critical even if providing professional assistance and not legal advice under the definition of the Professional Conduct Guide, or where foreign qualified lawyers are involved and it must be made clear that Hong Kong law advice cannot be provided. The engagement letter should also address the issue of costs and how disbursements will be treated.

4.19 Imposing a limit on liability in the engagement letter may also be a useful way of managing risk with respect to Pro Bono services that relate to non-legal assistance where the risk cannot be easily insured (eg research, legal education and training).

4.20 If an in-house legal team is partnering with a law firm, for example as part of a clinic, the partner law firm will generally arrange the necessary letter of engagement. The letter needs to cover the scope of work being provided by the in-house legal team as well as the law firm, and a copy should be provided to the in-house counsel for their records. If an in-house legal team is collaborating with a law firm on one of its projects, the firm may prepare a basic term sheet agreement or memorandum of understanding that sets out the obligations and responsibilities of the firm and the in-house counsel, so that the work that each is undertaking is clear.



5. Sourcing Pro Bono opportunities in Hong Kong

- 5.1 One of the common challenges for lawyers, especially in-house counsel, is where to find suitable Pro Bono opportunities. While there is a willingness to help and provide legal support, lawyers often do not know where to find suitable matters and often rely on word-of-mouth. It can be difficult to know at any given point in time what the legal needs are, vet those organisations and individuals and then manage those projects.
- 5.2 Fortunately there are organisations who can assist in-house lawyers to source Pro Bono opportunities in Hong Kong.

CLIX: Hong Kong Pro Bono portal

- 5.3 [CLIX](#) is a digital portal that connects Pro Bono lawyers with community impact organisations in Hong Kong, such as NGOs and social enterprises (and their clients) who need legal support. Developed by Justice Connect, CLIX was launched in Hong Kong by two local NGOs, PILnet and Equal Justice Limited 平義社有限公司.
- 5.4 The CLIX team handles the process of vetting legal requests from impact organisations and drafting a description of the background and specific legal need. This description – where the CLIX team can flag matters particularly suited to in-house counsel – is then posted onto the CLIX portal. New matters are automatically emailed to all CLIX users, filtered according to each legal team’s preferred areas of law. The portal’s technology allows users to select preferred types of Pro Bono, with a wide variety of options, such as legal clinics, training, mentoring, document review and preparation, research, etc.
- 5.5 Lawyers can volunteer for opportunities of interest, and can also contact the CLIX team for more information before making a decision. Once a match is made and conflicts are cleared, the lawyers work directly with the organisation, outside of CLIX. Most opportunities allow for multiple expressions of interest, which facilitates pairing in-house lawyers with law firms, where insurance coverage and legal advice are required.
- 5.6 In-house legal teams in Hong Kong are encouraged to join as users. There is no fee to join, and no minimum volunteering requirement. If they wish, in-house lawyers can also join in an individual capacity, for example if the company does not have an established Pro Bono program in place.
- 5.7 For more information on how to get involved, visit <https://www.clixhk.org/> or email the CLIX team at hello@clixhk.org.

Other clearinghouses

- 5.8 Similar to the CLIX platform, other Pro Bono clearinghouses can offer vetted and curated Pro Bono opportunities, both in Hong Kong and regionally in Asia. In-house lawyers can consider joining [TrustLaw](#), or subscribing to PILnet’s [Global Clearinghouse](#), which regularly alerts lawyers of current Pro Bono opportunities with various NGOs and other organisations. These range from opportunities that require partnering with a law firm to those which in-house counsel could do independently (such as being a legal mentor for a university student competition).
- 5.9 One example collaboration between PILNet and in-house counsel is described below at paragraphs 7.25 to 7.28. Interested lawyers can also reach out to PILnet at hkprobono@pilnet.org for more information.

Pro Bono HK

- 5.10 Pro Bono HK is an independent Hong Kong based non-profit organisation and registered charity. Pro Bono HK’s mission is to empower the impoverished, distressed, or vulnerable in the local community to access justice so they can access opportunities on an equal footing – free from discrimination and unlawful, unfair, or unjust practices. Pro Bono HK seeks to ensure that everyone has the equal protection of the law and that no one is denied the ability to exercise their legal rights under the law due to a lack of financial or other resources.
- 5.11 Pro Bono HK has a range of programs that in-house counsel can get involved to source Pro Bono opportunities. They are also open to in-house counsel approaching them with their own Pro Bono projects or ideas which Pro Bono HK can help to set up and coordinate.
- 5.12 One of the programs where in-house counsel can get involved is the Community Legal Clinic where lawyers and students provide legal advice and assistance to people who cannot access legal aid, or charities working for the public good. The Clinic covers advice in several areas of law, including Family, Criminal, Employment, Personal Injuries, Land & Property, Wills & Probate, Contract and debts. The clinic is run both online via zoom and in person at SoCO’s offices in Shum Shui Po. When a lawyer signs up to the clinic, they are assigned an individual case based on their availability and expertise.

- 5.13 In-house counsel can assist the Clinic with coordination, research and procedural matters (legal aid applications, submissions to tribunals, legal drafting) or alternatively, assisting with drafting, agreement and corporate related matters.
- 5.14 Pro Bono HK can also partner with in-house counsel to create bespoke pro bono and community projects which are in line with their company's ESG strategy and priorities. Pro Bono HK develops programs to create mutually fulfilling and impactful programs in partnership with in-house counsel. For example, there is a severe housing shortage and a huge wealth disparity in Hong Kong. In response to the escalating housing problem, Pro Bono HK is working with an international bank, which has set housing access and affordability as one of its focus areas in its community outreach work. The project targets the legal issues faced by those living in sub-divided flats which includes delivering legal education workshops and seminars, drafting free resources on tenant's rights and responsibilities and setting up a specialised legal clinic for tenants and families living in sub-standard housing. This project demonstrates how in-house counsel can actively lead and develop specific projects that align with their ESG strategy and community-giving objectives for a good cause while creating volunteering opportunities for themselves and their colleagues.
- 5.15 In addition to the above opportunities, in-house lawyers can work with and support Pro Bono HK by:
- assisting with seminars for the public or frontline workers by developing workshop materials, coordinating with stakeholders and delivering seminars (see case study);

- supporting Pro Bono HK's legal research and policy work to improve access to justice in Hong Kong; and
- helping Pro Bono HK to reach out to local nonprofits and charities, who are working to improve access to justice and in need of legal support.

5.16 To find out more, please visit <https://www.probonohk.org/> or contact Pro Bono HK on ask@probono.org.hk.

Hong Kong Pro Bono roundtable

- 5.17 Further to sourcing Pro Bono opportunities through clearinghouses or a local NGO such as Pro Bono HK, the Hong Kong Pro Bono Roundtable can be a source of matters for in-house counsel.
- 5.18 This quarterly event aims to connect, activate and coordinate Pro Bono lawyers in Hong Kong to maximise the impact of their efforts, such as mobilising legal services, organising joint interventions and building a Pro Bono community. It is a good way to learn about what other lawyers are doing in Hong Kong, what organisations need legal assistance, and identify opportunities for collaboration.
- 5.19 The Roundtable's network represents more than 80 institutions, including a number of global law firms with a presence in Hong Kong, as well as local law firms, in-house legal teams, barristers, law schools and NGOs. Coordinated by a steering committee, each meeting lasts for 1.5 hours, and includes a substantive topic, practice pointers and group discussions.
- 5.20 All legal professionals who are interested in Pro Bono and are looking for ways to actively participate are welcome to join. More information about the Roundtable can be found at [PILnet's website](#) and lawyers can request to join by completing an [online form](#).¹⁴

14. PILnet Hong Kong Limited. (n.d.). Hong Kong Pro Bono Roundtable: Request to Join Mailing List. https://pilnet.formstack.com/forms/hong_kong_pro_bono_roundtable



6. Partnering with a law firm

- 6.1 In the past few years, more law firms have set up pro bono committees, or appointed dedicated lawyers to manage their Pro Bono practice in Hong Kong. As a result, those law firms have established Pro Bono practices and relationships with local NGOs and clearinghouses who often provide a regular flow of Pro Bono opportunities. The firms are familiar with scoping requests for Pro Bono assistance from civil society organisations, identifying and understanding legal needs of a community, working with marginalised individuals and developing impactful access to justice projects.
- 6.2 For in-house counsel, these firms present an opportunity for Pro Bono partnering, especially in circumstances where an in-house legal team may not have the resources to source and manage their own Pro Bono projects. By collaborating with a firm that has an established Pro Bono practice, an in-house team can tap into existing opportunities and established relationships. This means there is less onus on the in-house team to develop their own network with civil society organisations to identify the best Pro Bono projects.
- 6.3 Partnering with a law firm can also help in-house counsel overcome the regulatory barriers when working on Pro Bono matters. Law firms may agree to extend their PI insurance to cover the in-house legal team, and a suitable division of labour can be agreed. For example, work involving direct provision of legal advice or representation can be handled by the law firm lawyers or a barrister (eg appearing in Court) and the in-house lawyers support with legal research or training components. By relying on a law firm's PI coverage, in-house lawyers are able to access a much broader range of Pro Bono opportunities as well as receive training and supervision from the law firm partner. Law firms may also have practical resources and established tools that may not be available to a small in-house legal team.



7. Case studies

1. Promoting Pro Bono participation in the BNY Legal Department

- 7.1 BNY operates its Pro Bono program globally, in cities where the Legal Department has a presence. The Global Pro Bono Council is led by two Global Co-Chairs and is formed by Council chairs from each region. The Global Pro Bono Council meets regularly and shares information on the different projects each region is running. This enables the team to learn from projects organised in other jurisdictions and acts as a sounding board for Council members.
- 7.2 BNY's APAC Pro Bono Council is currently co-chaired by members of the Legal Department in Hong Kong and Singapore, where the Legal Department has the largest presence within the APAC region. The APAC Co-Chairs are responsible for sourcing and promoting Pro Bono projects in the region.
- 7.3 **Partnering with law firms:** One issue often encountered by in-house counsel is that their professional licenses may not allow them to give legal advice to anyone other than their employer, thus limiting their ability to give legal advice on a Pro Bono basis. To address this, BNY works closely with BNY's panel firms, to identify and execute Pro Bono projects. Many of BNY's panel firms operate their own Pro Bono programs and are interested in collaborating with BNY on these projects. This not only enables in-house lawyers to engage in Pro Bono work, but also is an excellent opportunity for lawyers at the participating firms to work with their in-house counterparts.
- 7.4 **Setting formal goals:** Members of BNY's Legal Department are required to participate in service work each year, which can include participating in Pro Bono activities. This encourages the team to get involved in Pro Bono activities and formalises the expectation from management that participation in community work is a goal that the Legal Department strives towards. In addition, BNY encourages employee participation by offering paid volunteer time off. Eligible employees receive up to three days each year to participate in volunteer activities.
- 7.5 **Offering employees flexibility:** BNY offers employees a range of ways to participate in Pro Bono activities, including virtual events, in person events, and hybrid events. This enables employees to contribute in a way that suits their work schedules and preferences.

2. Turning your everyday work into a valuable support for civil society – the experience of DLA Piper and Marsh McLennan

- 7.6 Extreme weather events have become more common than ever due to climate change. In addition to using traditional methods to slow down climate change and building infrastructure to enhance climate resilience, more individuals, small businesses, or even countries have opted for various insurance-related solutions to mitigate the damage caused by climate risks. It includes parametric insurance, which bridges the protection gap and covers risks that have traditionally been uninsurable or difficult to insure, complementing traditional insurance policies.
- 7.7 DLA Piper noticed the trend of using parametric insurance in the commercial insurance market to increase climate resilience. Through liaising with NGOs focused on climate and environmental issues, they also saw the need for a better understanding of this concept of insurance in civil society organisations in Hong Kong. As such, DLA Piper's Insurance Team invited Marsh McLennan and an NGO to co-organise a webinar introducing insurance's role when facing climate risks.
- 7.8 During the webinar, Marsh's Head of Alternative Risk Solutions and Head of Climate and Sustainability Advisory spoke about its customised parametric typhoon solution. They also provided case studies to demonstrate the benefits of parametric insurance to respond to extreme weather events. The DLA Piper then team talked about the principle of indemnity and the challenges of parametric insurance. The webinar concluded with an interactive and high-level discussion between civil society and the financial/insurance sector on how to strengthen collaboration in the area of climate resilience.
- 7.9 This webinar is a classic example of how business lawyers can share their commercial and legal expertise to enhance the knowledge and capacity of civil society organisations. The business sector equally benefits, having engaged with civil society to exchange views and learn from their perspectives. Collectively these knowledge sharing events can potentially lead to collaborative development of new solutions for marginalised communities.
- 7.10 Other commercial law topics of interest to civil society organisation are diversity and inclusion, legal technology, the use of artificial intelligence, and digital financing. So why not start a conversation with your local charity/NGO partners to see how you can use your in-house legal skills to help.

3. Bloomberg and King & Wood Mallesons: Review of first instant Unified Screening Mechanism decisions

7.11 Philanthropy is at the heart of Bloomberg, and the Legal & Compliance Department's mission is no different. In 2016, the Department launched the Bloomberg Legal & Compliance Pro Bono Program as a way for its attorney, compliance, operations and negotiation teams to use their knowledge, time and expertise to give back to underserved communities around the globe. The Bloomberg Pro Bono program aims to help marginalised communities navigate legal issues and processes for complex matters related to asylum, veteran benefits, immigration, domestic violence, transgender name change petitions, and small business management.

7.12 King & Wood Mallesons ("KWM") is committed to creating a sustained, long-term and significant impact for the communities in which it works and operates. KWM believes it has a responsibility as a top tier law firm to use its unique legal and commercial skills, its relationships and resources for the lasting prosperity of its clients, people and communities. KWM's community work focuses on three key areas: Pro Bono legal services, specialist and community services, and philanthropy.

7.13 One of KWM's key Pro Bono partners is Justice Centre Hong Kong. There are over 15,000 asylum seekers in Hong Kong but less than 1% of asylum applications are accepted by the Hong Kong Immigration Department. Justice Centre is a non-profit organisation that provides free legal, welfare and psychosocial support to refugees, torture survivors and others forcibly displaced. Through strategic and community initiatives and by partnering with law firms and in-house counsel, Justice Centre addresses areas of unmet legal needs of refugees and asylum seekers. It works to ensure displaced peoples have equitable access to high quality services and a voice in society. In 2023, with the help of Pro Bono partners, Justice Centre delivered individualised legal assistance to 128 men, women and children, while providing legal consultation and information to many more.

7.14 For more than a decade, KWM has provided Justice Centre with significant Pro Bono legal and casework support. In 2024, KWM, Bloomberg and Justice Centre collaborated to address a critical justice issue for asylum seekers in Hong Kong – the Unified Screening Mechanism ("USM"). The USM was started by the Hong Kong Government back in 2014 to determine claims for non-refoulement protection against removal from Hong Kong to another country. The Hong Kong Government employs the USM to screen all claims lodged by persons who fear harm upon return to their country of origin. Justice Centre required Pro Bono support to conduct an analysis of 50 first instance decisions within the USM and to identify common trends in decision making in order to raise awareness with relevant stakeholders.

7.15 To assist Justice Centre, Bloomberg's Legal & Compliance Department and KWM worked together to conduct an in-depth review and analysis of five First Instance decisions from the Immigration Department. Volunteers jointly analysed the decisions to identify common trends and extract examples of legal issues in decision-making. Cumulatively, volunteers from Bloomberg and KWM spent more than 200 hours on the project and their findings informed research that was presented by Justice Centre at the CCPL Symposium (10th Anniversary of the Unified Screening Mechanism: Progress & Challenges) at the University of Hong Kong on September 26, 2024. The research is also being used by Justice Centre to develop resources and enhance the quality of legal representation and professional services for refugee and migrant communities in Hong Kong.

7.16 Justice Centre's Pro Bono partners dedicate invaluable time, skills and resources to support refugees and other forced migrants in Hong Kong SAR. Justice Centre works closely with partners to deliver a range of critical legal services, which target areas of unmet needs. They offer Pro Bono opportunities which range from conducting desk-based research on conditions in risk countries and emerging legal issues, to working directly with refugees and torture survivors to prepare testimony and represent them in asylum proceedings. Interested lawyers are encouraged to go to <https://www.justicecentre.org.hk/get-involved/> to learn more.



4. Linklaters and UBS AG use data to promote women's economic empowerment

- 7.17 Linklaters' market-leading global Pro Bono practice strives to improve lives every year through using resources and legal expertise to challenge injustice and provide free legal assistance and representation. Every individual, regardless of socioeconomic status, should be given equal access to justice. Linklaters focuses on matters that will make the most innovative and impactful contributions to people and the planet, and partnering with their in-house counsel clients on matters allows them to maximise the contributions that they can make together.
- 7.18 UBS AG's Group Legal APAC Pro Brono Program seeks to engage qualified legal counsel and legal professionals in Group Legal and beyond to contribute their time and professional skills to individuals and organisations in need of legal assistance that are unable to pay for those services. Either as individual legal professionals or in collaboration with external law firms or other community service organisations, the team uses their legal skills to give back to the communities in which they live and work with the ultimate aim of providing access to justice and making those communities fairer and more resilient.
- 7.19 The World Bank Women, Business and the Law is an annual index measuring laws and policies that hinder and promote women's economic opportunity across 190 economies. The goal of the report is to identify regulatory barriers to women's economic participation, provide evidence to encourage the reform of discriminatory laws, and evaluate the annual progress that economies have made towards gender equality since each previous year's report.

- 7.20 Linklaters lawyers in Hong Kong, Shanghai, Zhao Sheng, Singapore and Tokyo, collaborated with in-house counsel lawyers at UBS AG to complete the Women, Business and the Law questionnaires for the 2024 report, providing extensive research into matters relating to women's safety, mobility, workplaces, pay, marriage, parenthood, childcare, entrepreneurship, assets and pensions. The teams allocated and undertook different research topics which they then shared with each other for review and inputs.
- 7.21 It was a popular project with the lawyers at Linklaters and UBS AG because it involved desk-based and time-flexible research that can be fitted in around other commitments. It was also rewarding because the end work product was so impactful – a reputable, accessible, public facing report that is widely used (it has been downloaded more than a million times since its inaugural report).

5. Teaching to raise awareness of legal rights – Pro Bono HK, Linklaters and BNY

- 7.22 To increase public awareness of legal rights and obligations and how to protect and enforce those rights, Pro Bono HK runs regular legal information seminars for the community. The legal seminars cover issues such as public housing, criminal procedures, personal injuries, employment law, contract law, consumer protections, and family law.
- 7.23 A recent seminar series on Diversity, Equity and Inclusion involved a collaboration with Linklaters lawyers and BNY lawyers. The seminars focused on the different race and sex anti-discrimination protections. Drawing on the employment law expertise of the Linklaters and BNY lawyers, the joint team prepared a seminar on tackling pregnancy discrimination in



response to the difficulties many pregnant women face in a workplace. The seminar provided an overview of the relevant law as well as the rights and obligations of employees and employers. The collaboration involved the lawyers jointly conducting research, preparing the seminar materials and then presenting the in-person seminar to community members. Pro Bono HK provided operational support for the event including advertising the event with local communities and providing on the day coordination.

- 7.24 The project was well-suited to collaboration with in-house counsel because it required legal expertise as opposed to legal advice, making it easier for in-house counsel to get involved. The attendees at the seminar also benefited as it involved different presenters from private practice and in-house who each brought different legal experiences and perspectives to the discussion. Feedback from both legal teams demonstrated that the project provided good relationship building opportunities.

6. PILNet, Mayer Brown and UBS AG partner to offer Legal Health Checks for Hong Kong civil society organisations

- 7.25 In 2020 PILnet partnered with law firm Mayer Brown and the in-house legal team at UBS AG to design a "Legal Health Check" service for civil society organisations ("CSOs") in Hong Kong. The goal of the service is to help CSOs identify existing and potential legal issues and operational risks in the organisation and create a plan to address them. This enables CSOs to be better prepared to respond to a rapidly-changing environment, so they can become more resilient and focus their resources on achieving their core missions of serving the community. Topics covered in the legal health assessment include areas such as organisational structure, financial health, workforce, fundraising, information technology, dealing with third parties, and crisis management, among other areas.
- 7.26 The model for the Legal Health Check consists of a law firm working alongside an in-house legal team, in a Pro Bono capacity. Working together, the lawyers analyse the information and documents provided by the CSO (which may be provided in either English or Chinese) and assess potential risks. They then prepare a detailed report for the CSO that clearly identifies the legal issues and risks that need to be prioritised – written in everyday English and using an easy-to-understand traffic-light system. The report is not presented as specific legal advice, but rather as a high-level assessment of areas of perceived risk, categorised as "high" (red), "medium" (yellow), or "low" (green). Where helpful, links to any existing tools and resources are inserted, where relevant to one or more of the areas flagged.

- 7.27 The report is presented to the CSO at an initial meeting with PILnet, where they identify and agree on key areas to focus on. Wherever a need for substantive legal or risk management assistance is flagged as "high" or "medium" and the CSO agrees to seek support, PILnet will then approach the in-house and law firm team, to see if they have expertise and capacity to advise on the specific legal request. If not, the request is shared with PILnet's wider legal network through the [Hong Kong Clearinghouse](#). PILnet will then meet with the CSO again approximately six months later to see how the progress is coming along, and identify any further areas to focus on.

- 7.28 PILNet provides extensive support to law firms and in-house counsel when they sign up to the Legal Health Check program and throughout their involvement. For example, PILNet arranges an orientation session with the volunteer lawyers including an introductory video which goes over the process and expectations, timeframes, common issues that arise and helpful resources. During the program, PILNet also schedules regular check ins with the participating lawyers to ensure they have the support they need and to gather any feedback.

7. Clifford Chance collaborates with BNY in addressing the legal issues of NGOs

- 7.29 At Clifford Chance, a commitment to acting responsibly lies at the heart of our business strategy. A key component is the firm's commitment to contributing to the communities in which they operate by delivering comprehensive Pro Bono services alongside philanthropic and community outreach programmes. Clifford Chance's Pro Bono strategy focuses on contributing towards the achievement of the United Nations Sustainable Development Goals. They work on widening access to justice, education, a healthy environment and sustainable economic opportunity, in particular focusing on collaboration and partnerships (SDG17.6 and SDG17.17). Working in partnership with community organisations, schools, charities, not-for-profits, NGOs and international NGOs has proven to be an effective way to maximise our impact.
- 7.30 In Hong Kong, Clifford Chance has been running a series of Pro Bono workshops with four client firms for over five years, and BNY has recently joined this initiative. Pro Bono workshops provide an opportunity for Clifford Chance lawyers to partner with client lawyers and offer legal-related advice to representatives from local NGOs.

7.31 The format is as follows:

- Clifford Chance reaches out to core NGO partners to determine whether or not they have any legal-related questions that they are seeking answers to. If so, Clifford Chance invites them to join their Pro Bono workshops.
- Each workshop usually consists of four NGOs, with one team of Clifford Chance and client lawyers (4-6 lawyers total) assigned to each NGO.
- Each team is assigned one NGO, and this NGO will submit one legal-related question two weeks prior to the workshop.
- Each team of Clifford Chance and client lawyers will research and respond to this specific question in a clear, “non-legalistic” manner. The time commitment is roughly 2-3 hours per volunteer prior to the workshop.
- Clifford Chance/client teams and NGO representatives will meet over a 90-minute lunch hosted at Clifford Chance. During this session, they will provide verbal answers to NGO questions, in an informal roundtable discussion.

- This format leads to an interactive session, with NGOs often offering input to one another, as they frequently have similar queries and concerns.
- In some circumstances, the Clifford Chance/client teams provide follow-up assistance to the NGOs after the workshop.

7.32 All stakeholders find these sessions to be very worthwhile and informative, with an NGO representative recently remarking:

“It was interesting to hear some of the questions raised by other charities and organisations, and the responses from the lawyers”.

7.33 A BNY participant commented:

“Thank you again for organising such an engaging event today for our volunteers. The roundtable format made it really interesting for me and I hope the NGOs found it equally helpful to their work”.



8. Useful resources

8.1 The following overseas resources may be of assistance as reference materials:

- [Australian Pro Bono Centre](#)
- [Corporate Pro Bono's Pro Bono Development Guide – How to Start an In-house Pro Bono Program](#)
- [The Association of Pro Bono Counsel](#)
- [The Global Pro Bono Hub](#)
- [The Law Society of the England and Wales's Solicitors' Pro Bono Toolkit](#)
- [The Pro Bono Institute](#)



Appendix: A Sample Pro Bono Policy

Note: This document is a generic sample only, provided to assist in-house counsel wishing to develop a Pro Bono policy. You must carefully consider whether you need to amend this document to fit the regulatory requirements which apply to your organisation, including consideration of the qualifications held by your in-house legal team.

Objectives

- 1.1 (Organisation name) operates within the broader community and recognises the importance of supporting this community in a variety of ways, consistent with its corporate social responsibility policy (outlined separately in policy (insert)).
- 1.2 A key way in which (organisation name) can contribute to the community is to facilitate greater access to justice through the development of a program that facilitates participation by its legal team in Pro Bono legal work, the scope of which is outlined in this Pro Bono Policy.
- 1.3 Lawyers have an ethical and professional responsibility to provide legal assistance to those who would not otherwise be able to access justice. This is a service that lawyers are uniquely positioned to provide.
- 1.4 (Organisation name) strongly encourages members of its legal team to participate in the Pro Bono program, although participation is not mandatory.
- 1.5 (As part of its role in supporting and facilitating the performance of Pro Bono legal work by members of its legal team, (organisation name) seeks to meet a target of at least (X) percent of the members of its legal team undertaking Pro Bono work through the Pro Bono program each year – if applicable).
- 1.6 (Organisation name)'s role in (industry) and our commitment to (insert area of need) as part of our broader corporate social responsibility strategy, means that Pro Bono legal work which provides assistance to (insert description) or Approved Project Partners will be given priority.
- 1.7 Approved Project Partners include (insert names of organisations that are pre-approved as recipients of Pro Bono legal assistance through the Pro Bono program).

“Pro Bono legal work” defined

- 1.8 For the purpose of (organisation name)'s Pro Bono program ‘Pro Bono legal work’ is defined as: (To be determined internally, to include within scope the type of projects envisaged)
- 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 funding is not available.
 - Developing and delivering legal education seminars, undertaking research and report writing in relation to areas of law affecting poor and marginalised groups.
 - Conducting law reform and policy work on issues affecting poor and marginalised members of the community.
 - Projects and other initiatives which increase and facilitate access to justice.
 - The services provided must be free to the client, without payment to the lawyer regardless of the outcome of the matter.

Coordination of the program

- 1.9 Pro Bono Coordinator: (Organisation name)'s Pro Bono program is coordinated and administered by the Pro Bono Coordinator, as appointed by the General Counsel.
- 1.10 It is the Pro Bono Coordinator's role to:
- manage the day-to-day operation of the Pro Bono program, including:
 - i. sourcing Pro Bono legal work;
 - ii. approving and allocating matters;
 - iii. drafting memoranda of understanding, secondment agreements and other partnership agreements for review by the General Counsel;
 - iv. developing and implementing processes to support the efficient and effective operation of the program; and
 - v. determining whether there is sufficient capacity at any time to take on the work;

- (promote participation in the Pro Bono program, in line with (organisation name)'s goal of at least (X) percent of the members of its legal team undertaking Pro Bono legal work each year – if applicable);
- foster and develop relationships between (organisation name) and its referrers (and Approved Project Partners);
- confirm that professional indemnity insurance is in place for the Pro Bono legal work undertaken as part of the program, if required;
- confirm that lawyers participating in the program hold an appropriate practising certificate for the type of Pro Bono work to be undertaken;
- confirm that, where appropriate, a letter of engagement has been sent to the Pro Bono client;
- arrange appropriate training;
- track, measure and report on the Pro Bono legal work undertaken as part of the Pro Bono program; and
- keep the General Counsel informed of the work of the Pro Bono program.
- ensuring that the lawyers working on a matter are aware of their practising certificate and professional indemnity insurance obligations;
- confirming with the Pro Bono client that assistance can be provided through the program, or communicating why the request for assistance has been declined;
- providing the Pro Bono client with their lawyer's contact details; and
- where appropriate, asking the lawyer responsible for the matter to prepare an engagement letter, including outlining the approach to any costs and disbursements, and ensuring that this occurs.

Pro Bono legal work and service standards

- 1.13 Pro Bono legal work undertaken as part of the Pro Bono program can be carried out during normal business hours.
- 1.14 Pro Bono legal work is to be carried out in the same way, and with the same diligence, as other legal work carried out by the team.
- 1.15 Pro Bono legal work will be credited and recognised in accordance with the organisation's legal time recording policy (if applicable).

Professional indemnity insurance

- 1.16 Before a lawyer commences Pro Bono legal work as part of (Organisation name) Pro Bono program, professional indemnity insurance must be in place, unless the Pro Bono Coordinator has confirmed that the type of Pro Bono work being engaged in does not require professional indemnity insurance.
- 1.17 Where the Pro Bono legal work is part of a partnership with another organisation that carries its own professional indemnity insurance (for example, a law firm) the partner's policy is likely to provide coverage and this should be requested. This coverage should be confirmed in writing prior to any work being undertaken.

Assessment of request for Pro Bono Assistance

- 1.11 It is the Pro Bono Coordinator's role to assess requests for Pro Bono assistance, with support from the General Counsel as required.
- 1.12 The Pro Bono Coordinator is responsible for:
- being the contact point for community and/or law firm partners in relation to (organisation's name)'s pro bono program;
 - assessing any requests for assistance against the definition of 'Pro Bono legal work' adopted in this Policy, (together with the organisation's key focus areas);
 - confirming that the proposed work does not create a conflict of interest and seeking advice when necessary;
 - identifying a lawyer (or lawyers) and a supervising lawyer in the team to work on each approved Pro Bono matter, taking into account capacity, expertise, and any necessary training;

Practising certificates

- 1.18 Before commencing any Pro Bono legal work each lawyer must confirm that their practising certificate permits this work or alternatively that the work being undertaken does not require a practising certificate/qualified lawyer.

Letter of engagement or memorandum of understanding

- 1.19 Before commencing any Pro Bono legal work, the lawyer responsible for the work should determine if a letter of engagement or memorandum of understanding is required.
- 1.20 If a letter of engagement is required, the lawyer responsible for the work should prepare the letter and send it to the client. Or if partnering with a law firm, you must ensure the law firm sends the engagement letter and provides you with a copy.
- 1.21 If a memorandum of understanding is required, the lawyer responsible for the work should prepare the memorandum and send it to the partner organisation, ensuring a final copy is on file.

Use of organisation resources

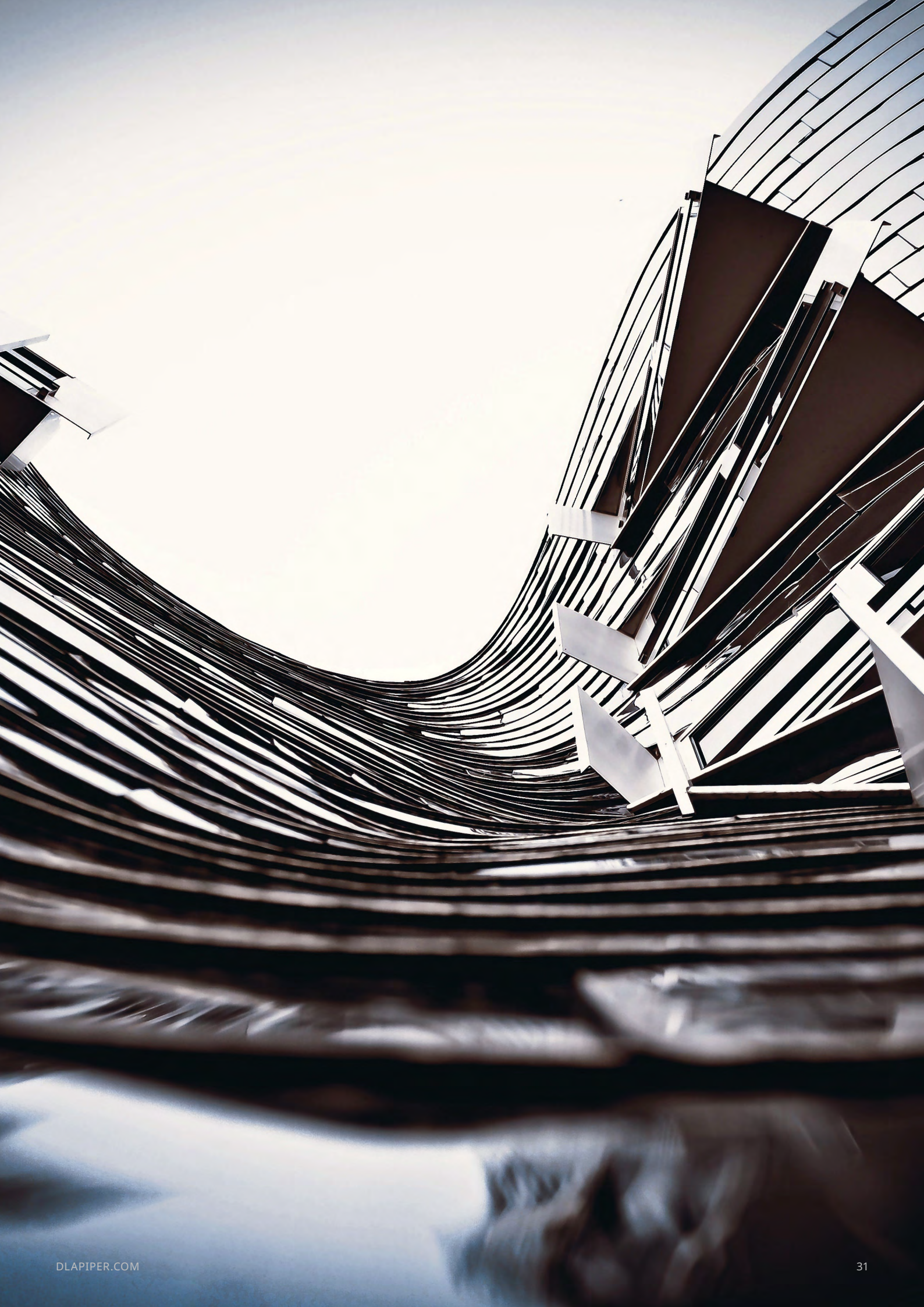
- 1.22 Lawyers participating in the Pro Bono program are permitted to use the organisation's resources in the same manner as they would for any other legal work being undertaken by (Organisation name). In this regard policy (insert Resources Policy number or similar, if any) applies.

Reporting

- 1.23 All lawyers participating in the Pro Bono program must report the hours of Pro Bono legal work they have undertaken per matter to the Pro Bono Coordinator every six months, or as otherwise required.
- 1.24 The Pro Bono Coordinator will provide the General Counsel with a summary of the hours of Pro Bono legal work undertaken as part of the Pro Bono program every six months, or as otherwise required.

Organisation affiliation

- 1.25 Although (Organisation name) strongly endorses participation in the Pro Bono program, lawyers who participate in the program are not acting in their capacity as a lawyer for the organisation. They are acting in their personal capacity with support from the organisation.
- 1.26 It must be made clear to Pro Bono clients assisted through the (Organisation name) Pro Bono program, that the (Organisation name) lawyer is not covered by professional indemnity insurance in relation to the project, where such project does not require the lawyer to have professional indemnity insurance in place.
- 1.27 Where the project or work is being insured through some other means, this must be made clear to the Pro Bono client.
- 1.28 Lawyers should discuss with the Pro Bono Coordinator, the appropriate wording to include in any client correspondence regarding (Organisation name) affiliation and Pro Bono services support.



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