



The Law Society

COUNCIL

The Council will meet at 09.30 on Wednesday 17 December 2008
in the Council Chamber at 113 Chancery Lane, London

AGENDA - PART 1

- 1 Apologies
 - 2 Request(s) for leave of absence
 - 3 Announcements
 - 4 Minutes of the Council meeting on 12 November 2008 Attached
 - 5 Matters Arising from the Minutes
 - 6 Question Time
- Representation*
- 7 Review of Regulation: Address by Lord Hunt Presentation
 - 8 Accreditation Attached
 - 8a Professional Indemnity Insurance Attached
- Regulation*
- 9 Report of the LCS Board Chair Attached
 - 10 Report of the SRA Board Chair Attached
 - 11 Fees and Contributions for Recognised Bodies March 2009 – October 2010 Attached
- Reports and motions*
- 12 Chief Executive's report Attached
 - 13 Reports of the Chairs of the Non-Regulatory Boards
 - (i) Membership Board To follow
 - (ii) Regulatory Affairs Board To follow
 - (iii) Management Board To follow
 - (iv) Legal Affairs and Policy Board To follow
 - 14 Council workplan Attached
 - 15 Council member motions
 - a. Measuring the value of committees: motion from Lucy Scott-Moncrieff Attached
 - b. Use of fee income: motion from Michael Garson Attached
 - c. Alternative Dispute Resolution Committee: Motion from Jenny Gracie Attached
 - 16 Oral reports



COUNCIL

Minutes of the meeting on 12 November 2008 in the Council Chamber at 113 Chancery Lane, London

PART 1

- Present** Paul Marsh (President)
Bob Heslett (Vice-President)
Linda Lee (Deputy Vice-President)
- Peter Adams, Robin ap Cynan, Adrian Barham, Paul Barnes, Richard Barr, Christina Blacklaws, Verity Boocock, David Bott, Grace Brass, Denis Cameron, Andrew Caplen, Sue Carter, Sara Chandler, Rajshree Chhatrishia, Christopher Clark, Helen Clarke, Stuart Collingham, George Curran, Helen Davies, Paul Davies, Simon Davis, Nigel Day, Nigel Dodds, Frank D'Souza, Joe Egan, Keith Etherington, Nicholas Fluck, Jeffrey Forrest, Michael Franks, Derek French, Michael Garson, Jennifer Gracie, David Greene, Wesley Gryk, Philip Hamer, Wendy Hewstone, Andrew Holroyd, Brian Hughes, Anne Jarvis, Ian Kelcey, Angus King, Carolyn Kirby, Ian Lithman, Patricia Lush, Kevin Martin, Clare McConnell, David McIntosh, Maria Memoli, David Merkel, Rod Mole, David Morgan, Tim Mutti, Sue Nelson, Nwabueze Nwokolo, Michael Orton-Jones, Tim O'Sullivan, Penny Palmer, John Pickup, Basil Preuveneers, Tony Prichard, Patrick Richards, Jonathan Ripman, Lucy Scott-Moncrieff, Razi Shah, Michael Singleton, Jonathan Smithers, Jonathan Stephens, David Taylor, Rodney Warren, John Weaver, Chris Welton, Fraser Whitehead, Michael Williams, Stanley Williams, John Wotton, Gaynor Wragg, Simon Young.
- In attendance** Desmond Hudson, Chief Executive of the Law Society
- By invitation** Deborah Evans, Chief Executive, Legal Complaints Service (minute 41)
Shamit Saggat, Chair, Legal Complaints Service Board (minute 41)
Antony Townsend, Chief Executive, Solicitors Regulation Authority (minute 42)
Peter Williamson, Chair, Solicitors Regulation Authority Board (minute 42)
- Apologies** Richard Barnett, John Bleasdale, Rob Brown, John Calladine, David Dixon, Paul Finch, Malcolm Fowler, Fleur Palmer, David Payne, Andrew Tucker, Michael Webster, John White, Peter Wright.

32 ANNOUNCEMENTS

The President welcomed David Bott to his first meeting.

The President informed the Council of the death of Sir Alan Leslie who was President of the Society in 1985. Sir John Wickerson had attended the funeral on the Council's behalf.

The President announced that Christopher Digby-Bell had resigned from the Council with immediate effect.

Mark
Paulson

33 PART 1 MINUTES OF THE COUNCIL MEETING ON 8 OCTOBER 2008

The Part 1 minutes of the Council meeting on 8 October 2008 were approved.

34 MATTERS ARISING FROM THE MINUTES

There were no matters arising.

35 QUESTION TIME

Des Hudson had recently received questions from Sue Carter which he would respond to and circulate by email.

Des
Hudson

36 COLOMBIA HUMAN RIGHTS MISSION

Sara Chandler gave a presentation on a human rights mission to Colombia in August 2008. She extended thanks to the President, the Chair of the Society's Charity, Nigel Dodds, and Courtenay Barklem, from the Society's International Department, for their assistance in helping the mission come to fruition.

Over half of the delegation of 72 comprised UK lawyers, including four Council members, with members from the Paris Bar, the Madrid Bar and other European Bars making up the remainder.

The Federation of European Bars (FBE) had passed resolutions in 2006, 2007 and 2008 to support Colombian human rights lawyers who worked under constant threat of assassination for representing trade unions, whose members were themselves targeted for assassination. This trip was intended to highlight the issues which these lawyers had to deal with and to demonstrate wide support for them.

The delegation visited courts and prisons and attended a series of briefings in Bogotá by an EU monitoring team. It heard evidence from a number of lawyers who had suffered abuse. There was no representative law society or Bar in Colombia which could take up these issues. The Vice President of the Colombian Human Rights' Team had agreed to investigate the death of human rights lawyers and it was hoped that the IBA would monitor this. Sir Henry Brooke would be giving a talk on the issues affecting Colombian lawyers at the Law Society on 24 November 2008.

The President thanked Sara Chandler for her initiative and hard work in getting the mission off the ground and all the Council members involved in drawing international attention to the plight of human rights lawyers in Colombia. He added that the delegation's work had been well-received at the recent IBA Conference.

37 EFFECTIVE MODERN REGULATION

The Society had commissioned Lord Hunt of Wirral to undertake a review of regulation of the profession as a whole. Nick Smedley, formerly a senior civil servant in the MoJ, would undertake a distinct strand of the review, on the regulation of corporate firms. He would

report his findings in February 2009, which would feed into the overall review which was due to report in summer 2009.

A reference group, chaired by the Vice-President, had been formed to assist Nick Smedley, comprising representatives from corporate firms and from corporate users of legal services.

In explaining the background to the review, Helen Davies, Chair of the Regulatory Affairs Board (RAB) said that it was crucial that the representative Law Society took the lead on what effective modern regulation meant.

The reviewer had already met stakeholders such as the Law Society, the Bar Council, the City of London Law Society and the College of Law, and that there were consistent messages coming from the corporate firms who felt that regulation should not be eased but should be more appropriate and proportionate to the type of firm; and who were unsure whether the SRA had the skills to deal with the regulation of corporate firms. Some Council members suggested that it would be better if the corporate review reference group were to include members who were not from a corporate background and would not be affected by any changes to the regulatory regime.

Council members expressed concern about the publicity in the legal press which had conveyed the impression that dual-regulation had already been decided upon and that corporate firms would end up with a light-touch regulatory system and high street firms the opposite. It was not clear why corporate firms merited different treatment from other solicitors. Helen Davies responded that the review of corporate firm regulation was one part of Lord Hunt's overall review into which it would feed.

There was a discussion about what the term 'corporate' meant, and whether it applied only to large firms, firms located in the City of London, or small firms with a niche corporate area of practice. The Council heard that the description which most 'corporate' solicitors used was international corporate, banking and finance work.

Several members expressed disquiet about the way in which the Council had been informed of the review. Helen Davies accepted that this could have been handled better. Others commented on the review's cost: at a time when the future of committees was being debated (with the abolition of some being contemplated) to save costs, there was doubt over whether it was right to spend £325,000 on a project which might be of no value to the profession should the SRA or the Society not act on any of Lord Hunt's recommendations.

In response, the Chief Executive commented that thought leadership was central to the Society's role in representing the profession's interests. Lord Hunt's review would inform those making the decisions on the future of regulation. Lord Hunt had expressed his wish to engage with all parts of the profession to seek their views, and had confirmed that equality and diversity issues would be central to his review. The Chief Executive confirmed that that the review's cost would not impact on resources for committees.

Helen Davies asked members not to prejudge the review's outcomes. There would be a number of roadshows which would enable the profession to give views to Lord Hunt.

The Council noted the report.

38

COUNCIL SIZE AND MEMBERSHIP

Tim O'Sullivan, Chair of the Council Membership Committee (CMC), opened the adjourned debate on his Committee's report. There was now a supplementary report with the original report, and this (superseding the original recommendations) invited the Council initially to vote on three options, following which a further report from the CMC on the other issues raised in the original report would, if appropriate, be brought to a future Council meeting.

The three options were –

- (a) a Council of 75 members (61 geographical members and 14 non-geographical members);
- (b) a Council of 85 members (61 geographical members and 24 non-geographical members); and
- (c) no change.

Tim O'Sullivan explained that the 85-member option had been included because in the debate at the previous meeting some support for this had been evident in the Council. He drew attention to the fact that all the non-geographical members' terms of office expired at the 2009 AGM and this, together with the fact that no time or resources were available for a full review of the geographical constituencies, had meant the CMC had concentrated on looking at the non-geographical seats. He referred to the various governance reviews and consultations which had taken place since 2004, in which a constant theme had been the need for a smaller Council, and urged the Council to make a definite decision on this issue.

Among the points made in the debate were –

- Non-geographical Council members made a great contribution to the work of the Council and enhanced its representativeness.
- It was wrong to focus on the non-geographical seats; the issue should be looked at in the round, including the geographical seats. Several members would support a reduction in the Council, but not solely through reducing the non-geographical seats.
- 'Area of law' seats formed a valuable bridge with the specialist committees.
- Solicitors tended to identify more with their area of practice or the type of law they practised than with their locality.

- Elections were often uncontested in the geographical constituencies – if there was a democratic deficit, it was in the geographical seats.
- The consultation on which the CMC had based its recommendations was flawed.
- The Council should take note of what had happened in the recent postal vote, and only reduce its size as the CMC proposed if it could be sure of carrying the profession with it.

Part way through the debate Sue Nelson moved that the question be put, and this was seconded. A vote was taken which failed to achieve the necessary two-thirds majority for the debate to be closed.

For: 45 Against 28 Abstentions 1 (not carried)

The debate therefore continued, and subsequently Sue Nelson moved again that the question be put, which was seconded. A further vote was taken in which two-thirds of the members voting supported the closure of the debate.

For: 52 Against 22 Abstentions 1 (carried)

Tim O’Sullivan responded briefly to the debate, referring to the 1997 convention on how the Council should deal with CMC recommendations, and saying that if the Council voted for no change, the CMC could regard the convention as being engaged.

Since there were three options on which the Council was invited to vote the President structured the voting procedure in two stages; assuming no option achieved more than 50% of the votes in the first stage, the lowest-scoring option would drop out after the first stage, and the Council would then vote on the remaining two options.

Accordingly, the Council first voted on the three options, as follows –

- | | | |
|-----|---|----|
| (1) | Council of 75 (61 geographical + 14 non-geographical) | 23 |
| (2) | Council of 85 (61 geographical + 24 non-geographical) | 17 |
| (3) | No change | 33 |

The Council therefore voted on a choice between options (1) and (3) or abstaining. The Council agreed that there should be no change to its size and structure, the voting being as follows:

- | | | |
|-----|--------------------------|----|
| (1) | Council of 75 (as above) | 31 |
| (2) | No change | 41 |
| (3) | Abstentions | 3 |

IMPACT OF THE LEGAL AID SETTLEMENT

The Deputy Vice President, Linda Lee, updated the Council on the impact of the legal aid settlement.

Linda reported that Legal Services Commission had been positive and helpful in the setting up of a number of groups.

The Quality Working Group comprised representatives from the Institute of Advanced Legal Studies, the MoJ and the SRA as well as members of the Society. The Group had set up a project with the LSC to devise a questionnaire to be completed by firms which had been peer-reviewed. A research project was also being undertaken to look at the correlation between peer review (a principle supported by the Council) and accreditation and which of the two systems would be the better one against which to measure. The LSC would now accept Lexcel as an alternative to the Specialist Quality Mark, which would be of immediate benefit to small legal aid firms.

The Contract Compliance Audit Group had almost completed its work and had made good progress on the following issues:

- there would be no recoupment of costs where only one or two files were nil-assessed;
- firms which scored well in the audit process would be removed from the process the following year; and
- improved clarity of the audit criteria would be provided to firms.

Andrew Caplen, Chair of the Access to Justice Committee also commented on the LSC's desire to be constructive and to make good progress. It was important to prevent any further reduction of money available to legal aid and it was imperative to maintain the distribution of money between the Bar and solicitors.

He had met Lord Bach who had announced that the Government would be spending £21m on legal aid impact tests. It was hoped that this money would be additional Government money and not taken out of current legal aid provision. He also reported progress made on standard monthly payments and reconciliation.

A member asked about the recent establishment of further CLACs and CLANs, as the settlement was intended to stay the establishment of further centres. It was explained that the settlement contained a list of CLACs and CLANs some of which had been set up and some of which had not yet been set up. This list could not be added to but those which were on the list would be established.

CONTINGENCY FUNDING

Linda Lee introduced the paper which proposed consulting the profession on contingency funding of claims. The Council's approval was sought in view of the possible change to policy and reputational risk that this might involve.

Contingency funding in the form of conditional fees (an uplift on the base fee, recoverable from damages), contingency fees (a percentage

of damages) or third party funding enabled access to justice for those who might not otherwise be able to afford it and recognised the litigation risk taken by the solicitor or third party funder, and the prohibition of contingency funding in certain types of case could be viewed as outdated. Consideration of whether third party funding should be regulated was needed. The consultation would make no recommendations, but present arguments for and against contingency funding for consideration by the profession.

The Council agreed to review its policy on contingency fees and that there should be a consultation with the profession in the form as attached at Appendix A to the report.

Mark
Stobbs/
Martin
Heskins

41 REPORT OF THE CHAIR OF THE LEGAL COMPLAINTS SERVICE BOARD

The Chair of the LCS Board, Professor Shamit Saggar, presented his report, which had been circulated. Professor Saggar drew attention to the following –

- The Chair of the Office of Legal Complaints had now been appointed, and the Board looked forward to working with her to achieve a smooth handover.
- Good progress was being made in achieving a cost reduction of 6% on budget by the year end.
- Discussions with the LSCC were at an early stage over the preparation of a non-statutory plan for the handover period.

Nwabueze Nwokolo, Chair of the Equality and Diversity Committee, commended the Board on its equality and diversity strategy, which was appended to the report.

The Council noted the report.

42 REPORT OF THE CHAIR OF THE SOLICITORS REGULATION AUTHORITY BOARD

The Chair of the SRA Board, Peter Williamson, presented his report. He gave additional information about the indemnity insurance renewal process. Business written to-date in the current process was £215.6 million, compared to £208 million in 2007. The indemnity market had hardened significantly. The SRA was receiving considerably more telephone enquiries on the subject. 146 firms were looking to be included in the Assigned Risks Pool (although this was not necessarily the final figure), a significant increase on the figure for 2007 (25). The SRA would review the position once the renewal process was complete but it had to be remembered that the profession had voted in 2001 to go into the market, and insurance markets were cyclical. The SRA could not control the market.

In answer to a question, Peter Williamson said he would look further at the issue of whether there should continue to be a single renewal date for indemnity insurance. The view taken hitherto was that this was advantageous to firms, since it maximised competition.

Peter
Williamson

Peter Williamson gave information about the PC renewal process. So far, 78,190 renewal forms had been received, as compared to 2007, when around 83,700 forms had been received. The reasons for the decrease were not clear. Reminder letters would be issued shortly to the relevant firms.

Peter Williamson undertook to respond in writing to questions on the following:

Peter
Williamson

- details of the kind of enquiries received by the SRA ethics helpline;
- whether there should be a discounted fee for recognised bodies not holding clients' monies;
- proposals (referred to in paragraph 3.1.8 of the SRA Chief Executive's report) to abolish the remuneration certificate procedure.

The SRA Board would be considering referral fees at its December meeting, and would report to the Council in January.

Peter
Williamson

Peter Williamson confirmed that further details of new Higher Rights of Audience regulations, now going through the Schedule 4 procedure, were on the SRA website.

The Council noted the report.

43

CHARTER AMENDMENTS: POSTAL BALLOT RESULTS

The Council noted the results of the postal ballot on proposed Charter amendments relating to enabling powers on non-corporate membership structure and non-membership relationships as follows:

7,123 votes in favour of the amendments (40.5% of the valid vote)

10,445 votes against the amendments (59.5% of the valid vote)

12.8% of eligible voters had participated.

The current definitions of Law Society membership and of associate and affiliate status would therefore remain unchanged.

44

THE COMMITTEE STRUCTURE

Linda Lee presented options, as agreed by the LAP Board, on the future of the committee structure. A revised set of proposals was tabled.

Funding was now available for a new constitutional and human rights committee and the abolition of the committees for housing law, mental health and disability, and planning and environmental law, was no longer being proposed. Representations from these committees (and also from, and in support of, the Alternative Dispute Resolution Committee) had been received and tabled. Linda Lee thanked all the committees for the high quality of their work.

Recruitment was under way to fill manager and policy adviser positions in the Legal Policy Directorate. This should be completed in early 2009 and would provide increased policy support for the committees.

Members made the following comments:

- The LAP Board had to balance the needs of the profession against what the Society could realistically deliver.
- No committees should be abolished until objective criteria for assessing their performance had been set.
- The LAP Board should avoid sending mixed messages to the specialist committees which could undermine the goodwill of committee members.
- The Family Law Committee did not have the capacity to take on the responsibility of alternative dispute resolution work. There should be greater cross-fertilisation between committees - this worked well with a Family Law Committee member on the Access to Justice Committee.
- The focus should be on outcomes achieved by committees.
- The committees' work should be communicated to the profession, otherwise their value and benefit was diminished.
- LAP Board intended to form a group of committee chairs to work on a best practice guideline. It was hoped that the necessary resources would be available before the end of the year.

Lucy Scott-Moncrieff indicated that she intended to submit a Council member motion to the December meeting, to ask Council to provide a steer about the Society's priority areas of work, and to request that Council contribute to the debate about the criteria to assess the performance of committees. Linda Lee invited her to attend the LAP Board beforehand.

During the debate, Sue Nelson, duly seconded, moved that the meeting proceed to the next item of business. Upon being put to the vote the motion was lost.

For: 31; Against: 38; Abstentions: 2 (not carried)

Nigel Dodds, duly seconded, then moved that the question be put. Upon being put to the vote, this was carried.

For: 50; Against: 17; Abstentions: 2 (carried)

The Council agreed:

- (1) to convert the Electronic Law Committee into a reference group. The resources saved would be used to provide more support to the existing committees;

Mark
Stobbs/
Mark
Paulson

For: 57; Against: 9; Abstentions: 4 (carried)

- (2) to transfer responsibility for alternative dispute resolution to the Civil Litigation Committee and create an ADR seat on the Family Law Committee and the Civil Litigation Committee. The resources saved would be used to provide more support to the existing committees;

For:42; Against: 21; Abstentions: 7 (carried)

- (3) to allocate an extra £95,000 to enable additional support to existing committees and to create a Constitutional and Human Rights Committee, subject to a business case for that committee being approved by Council on the recommendation of the LAP Board; and

For:40; Against: 26; Abstentions: 3 (carried)

- (4) that the Civil Litigation Committee be renamed the Civil Justice Committee.

For:49; Against:12; Abstentions: 8 (carried)

45 PUBLICISING GENERAL MEETINGS

The Council deferred this item until its next meeting.

Flick
Heron

46 COUNCIL WORKPLAN 2008-2009

The Council noted the update on its workplan for 2008-9.

47 CHIEF EXECUTIVE'S REPORT

The Council noted the Chief Executive's regular report on the work being undertaken by the Society to support solicitors since the previous meeting.

The Chief Executive highlighted the following matters:

- A paper had been tabled which summarised some of the Society's activities to help solicitors get through the credit crunch. The Society was seeking urgent meetings with the clearing banks to discuss the extent of funding available for solicitor practices, especially small firms. The first Law Society live webinar, 'Surviving the credit crunch', was available to view on the Law Society website. Another webinar to help practices face the credit crunch would soon be available. This was an important development in disseminating information to the profession.
- The Indemnity Insurance Sub-group had met on 11 November 2008 to assess the state of the Professional Indemnity Insurance (PII) market and to consider how the Society could assist the profession. A summary of the meeting had been tabled.

Nigel Day, Chair of the Sub-group, reported that firms had had mixed experiences when sourcing PII and that certain sections of the profession were more likely to struggle to get an appropriate quote. The Sub-group had identified a number of actions it would take, including the production of a Practice Note with advice on how best to source PII, looking at the future use of the Assigned Risks Pool (ARP), and also how to deal with the hardening of the market for sections of the profession. The sub-group would research the pros and cons of a single renewal date for the profession.

The Chief Executive answered members' questions as follows:

- The information on the credit crunch and PII would be circulated to the profession via the *President's Update*, *Professional Update* and the *Law Society Gazette*. Members were encouraged to circulate the information to constituents.
- Work was progressing on how the Society could assist members that were looking to exit the profession. A report would be made to Council in due course.
- No response had been received from Tim Dutton QC, Chairman of the Bar Council, to the Society's reaction to his criticisms about the quality of some solicitor advocates. The Society did not believe there was evidence of poor levels of advocacy by solicitors.
- The Society had been granted permission to intervene in the High Court action against huge fee increases for care proceedings. A decision was still awaited.

Post meeting note: The High Court dismissed a claim, brought by four councils and supported by the Law Society and the NSPCC, that the policy of full cost recovery in family proceedings was unlawful.

48 REPORT OF THE CHAIR OF THE MEMBERSHIP BOARD

The Council noted a year-end report of the Membership Board and the progress against its Workplan 2008.

The Council noted the Board's Workplan for 2009.

49 REPORT OF THE CHAIR OF THE REGULATORY AFFAIRS BOARD

Helen Davies reported on the RAB's work.

RAB wanted to see the transfer of non-mandatory accreditation schemes and panels from the SRA to the Law Society. The SRA had asked to retain and review accreditation and had included it within its workplan. The Society would press for the transfer. General Regulations changes would be needed to prepare for the transfer and a paper would be presented at the December Council meeting.

Mark
Stobbs/
Mark
Paulson

The Chief Executive explained that Lord Hunt of Wirral and Nick Smedley had been selected to conduct the reviews of regulation and

corporate firms because their experience matched the criteria needed for the tasks. The positions had not, therefore, been advertised (also see Minute 37).

RAB meetings in 2009 would take place weeks in advance of, rather than the day before, Council meetings.

The Council noted the report and the draft RAB Workplan for 2009.

50 REPORT OF THE CHAIR OF THE LEGAL AFFAIRS AND POLICY BOARD

The Council noted the report which detailed issues considered by the LAPB on 21 October including client funds, the TransAction Plus project, judicial appointments, provision of information by the Public Affairs Unit, the committee structure, the Committee Chair Handbook, Queens Counsel appointments, the Sharee Council Code of Practice, working groups, contingency fees, collective redress, administrative redress, a calendar of forthcoming consultations, accreditation and the Board's workplan.

51 COUNCIL MEMBER MOTIONS

There were no motions.

52 ORAL REPORTS

Equality and Diversity

Nwabueze Nwokolo reported on the E&D Committee's current activities which included working on a Group E&D Strategy, equal pay issues, and a Diversity Charter which would be launched in early 2009.

She encouraged Council members to be champions of equality and diversity. It was not an issue solely for the Equality and Diversity Committee but one that should be welcomed and promoted by all solicitors. The President and the Chief Executive had demonstrated their support by attending Equality and Diversity Committee and BME Forum meetings.

Signed:
Paul Marsh, President

Date:



The Law Society

COUNCIL
17 December 2008

Item 8

Classification – Public

Purpose – For decision

ACCREDITATION

The Issues

This paper invites Council to confirm that it wishes to transfer the running and development of voluntary accreditation schemes from the SRA to the representative Law Society.

Decision

Council is asked to approve the following amendments to the General Regulations:

In Regulation 26(4) (The Solicitors Regulation Authority Board), delete “*(including accreditation schemes and panels) but without prejudice to the operation of voluntary accreditation schemes and panels by any representative part of the Society*” and replace with the following –

“(including accreditation schemes and panels, but only where these are mandatory)”

At the end of Regulation 26(4) add –

“In this paragraph, ‘mandatory’ means in relation to a particular form of accreditation a requirement either by statute or by the Solicitors Practice Rules that the person or body concerned must be accredited in order to be able, either lawfully or in accordance with the rules of conduct, to carry out the activity to which the accreditation relates.”

Policy Position

The Policy Compendium will need to be updated if the Council approves the proposal.

Financial and Resourcing implications

It is proposed that the staff budget transfer to the Law Society with effect from 1 January 2009 but that no immediate changes are made to activities or reporting lines. The Law Society will then discuss next steps with the SRA during the first quarter of 2009 with new reporting lines and structures being established no later than June 2009.

Equality and Diversity implications

In running voluntary accreditation schemes the Society will wish to ensure equality of opportunity.

Consultation

The proposal has the support of RAB, the Membership Board and the LAPB. RAB considered the issue of accreditation in May, July and September 2008; the Membership Board in November 2007 and February, April, June, July, September, October and November 2008; and LAPB in June, July, September, October and November 2008.

The SRA has been consulted and has strong reservations about the proposal.

Directors: Mark Stobbs, Director of Legal Policy and Anne Godfrey,
Director of Law Society Services
Authors: Mark Stobbs and Anne Godfrey
Date of report: 1 December 2008

1. This paper recommends Council to confirm that it wishes to transfer the running and development of voluntary accreditation schemes from the SRA to the representative Law Society.
2. The Society developed a number of schemes for accrediting skills in particular areas of law. A list of these is at Annex A to these documents. Some were developed to meet particular requirements of the law and the Solicitors Practice Rules (eg the higher rights scheme). Others were developed in conjunction with the LSC to provide particular skills for their needs and become a passport to work for that particular authority. Others were developed because there was perceived to be a need for a scheme to identify experts in a particular area of law.
3. There is no suggestion that compulsory schemes should not remain with the regulator. These are schemes where it is either a legal or regulatory requirement that a practitioner be accredited through such a scheme in order lawfully (or in compliance with the practice rules) to undertake the work. It is obviously appropriate for a regulator to continue to control these. The remaining schemes are voluntary, in that a practitioner can choose whether or not to undertake them, even though in practice some purchasers (e.g. the LSC) may require accreditation under the scheme for the practitioner to be paid to do the work.
4. The schemes have long been recognised as being a “grey area” where it is arguable that they fulfil regulatory and representative functions. When regulatory matters were delegated to the SRA, the view was taken that accreditation schemes should fall within the regulatory category.
5. There are arguments in favour of either side undertaking the work. The SRA would be likely to argue that:
 - As a regulator, there is a duty to ensure that there is proper public information about the quality of lawyers;
 - Accreditation schemes can encourage the improvement of quality, which is a legitimate objective of a regulator
 - Accreditation schemes run by the regulator are more likely to carry confidence of users and purchasers than those run by the representative arm.
6. It is worth noting that these arguments are likely to find favour with the LSB, the LSC and some other purchasers.
7. On the other hand, there are strong arguments for a representative body running them:
 - Representative bodies have an interest in maintaining the standards of their members and ensuring their integrity;
 - Representative bodies are well placed to work with major purchasers to ensure that the standards of schemes meet their reasonable requirements;
 - Accreditation schemes provide publicity for members and are also a form of advertising – the sort of thing that a representative body ought to be providing for its members;
 - It is strongly arguable that a regulator should limit itself to compulsory schemes and should be working with the representative body to encourage voluntary schemes, but should not run them.

8. The issue has been considered by the RAB, Membership Board and LAPB. All are unanimous in their view that the representative side of the Society should be responsible for running voluntary accreditation schemes.
9. This would not prevent the SRA deciding that accreditation was essential for particular activities (obviously based on appropriate evidence). Nor would it prevent them seeking to encourage or assist the representative side in developing individual schemes or setting standards for them.
10. It is likely to take a bit of time to take over the administration of the schemes. It will be necessary to look at the management and staffing structure needed and to decide how it should be fitted within the existing management structure. It is proposed that the staff budget transfer to the Law Society with effect from 1 January 2009 but that no immediate changes are made to activities or reporting lines. The Law Society will then discuss next steps with the SRA during the first quarter of 2009 with new reporting lines and structures being established no later than June 2009.
11. The SRA has been consulted about this proposal and does not support it. The relevant correspondence is attached at Annex B. Two particular concerns are raised:
 - Some major purchasers in fact make the schemes compulsory and they would prefer them to be administered by the SRA;
 - The SRA is looking at its policy for quality assurance and it would be wrong for the Law Society to pre-empt that.
12. Peter Williamson will wish to speak about this to Council.
13. It might be thought that there are two flaws to the SRA's arguments. First, the fact that a major purchaser insists on particular standards of competence does not necessarily make it appropriate for a regulator to administer those – particularly if they are higher than might be required of ordinarily competent practitioners. Secondly, the SRA's work on quality appears to be at a very early stage and it is unlikely that they will be in a position to take a view for some months, thus putting considerable planning blight on the representative side developing these schemes.
14. To achieve the transfer, Council will need, in effect, to decide that it is inappropriate for the SRA to undertake such schemes. Otherwise there will be a danger of duplication of work. Such an approach, however, is consistent with a view that it is simply inappropriate for a regulator itself to develop voluntary accreditation schemes.
15. The following proposed amendments to the General Regulations will achieve this result:

In Regulation 26(4) (The Solicitors Regulation Authority Board), delete *“(including accreditation schemes and panels) but without prejudice to the operation of voluntary accreditation schemes and panels by any representative part of the Society”* and replace with the following –

“(including accreditation schemes and panels, but only where these are mandatory)”

At the end of Regulation 26(4) add –

“In this paragraph, ‘mandatory’ means in relation to a particular form of accreditation a requirement either by statute or by the Solicitors Practice Rules that the person or body concerned must be accredited in order to be able, either lawfully or in accordance with the rules of conduct, to carry out the activity to which the accreditation relates.”

Annex C shows the entire amended regulation.

16. Council needs to bear in mind that this decision will not be popular with the SRA and is likely to be subject to scrutiny by the LSB. Nevertheless, it is an intellectually justifiable position to hold and the clear view of the three Boards is that Council should make these amendments.

LIST OF CURRENT ACCREDITATION SCHEMES RUN BY THE SRA

Mandatory Schemes

These would remain with the SRA.

- Higher Rights (for as long as it is compulsory)
- Insolvency
- Police Station Accreditation (which accredits employees rather than solicitors)

Voluntary Schemes

The following would transfer from the SRA to the representational Law Society:

- Mental Health
- Children
- Immigration
- Family (1st stage and advanced)
- Criminal Litigation
- Clinical Negligence
- Planning
- Personal Injury
- Family and Civil/Commercial Mediation.

Annex B

By email



The Law Society

Antony Townsend
Chief Executive
Solicitors Regulation Authority
Ipsley Court
Berrington Court
Redditch
B98 0TD

5 November 2008

Dear Antony,

Re: Accreditation

We are writing further to Clare Gilligan's letter of 15th October about the staffing arrangements for accreditation.

As you know, there have been a number of discussions over the last year about the transfer of voluntary accreditation schemes back to the Law Society. This issue has been debated by Council, which passed the matter back for consideration by the relevant TLS Boards (RAB, LABP and Membership) and for discussion and consultation with SRA. The three Boards for their part are minded to recommend that such schemes more properly sit within the representative function.

The formal meeting held in September with Liz and Claire was intended to discuss these issues and if possible move this matter forward in a collaborative manner. Whilst we understand your desire for a lengthier, formal approach, we are concerned that this may delay matters and cause further uncertainty.

We believe that there are a number of compelling reasons to reach the decision mooted by the Boards:

1. While it is clearly right that regulatory arms should run compulsory accreditation schemes, voluntary schemes, by definition, are ones which have different objectives and do not require the Regulator to provide them itself or even, necessarily, monitor their effectiveness;
2. However such schemes are well suited to a representative body – they take forward its own interest in encouraging high standards – and form part of the suite of products that such an organisation should provide. Moreover, the fact that such schemes are run by the profession may relieve the Regulator of the burden of direct action because the profession is acting both in its own and in the public interest;
3. The Law Society would like to review these voluntary schemes and make them both more relevant to members and more up to date. They would form a major part of our strategy to promote excellence in the profession.

We note that the SRA is currently reviewing its mechanisms for assessing quality assurance and your view that it would be appropriate for any change to accreditation to await that as yet unscheduled decision. We do not think that it would be right to delay, particularly in the light of our discussions with the SRA so far.

We would obviously be keen to have a dialogue with you about the way in which the schemes work and to consider your views on the relevant standards and charges for such schemes. We would also expect to establish other voluntary schemes if there were either a demand from our members or if we (SRA and TLS) took the view that the public interest required new voluntary schemes in particular areas of law.

We therefore wish to propose to Council at its meeting in December to agree changes to the General Regulations to return responsibility for accreditation to the Law Society. Naturally in doing so we would take account of any further points you may make.

We would hope that the final proposals can be framed by way of a joint approach or, if agreement is elusive, by Council having before it any dissenting views from SRA as well as the paper from TLS.

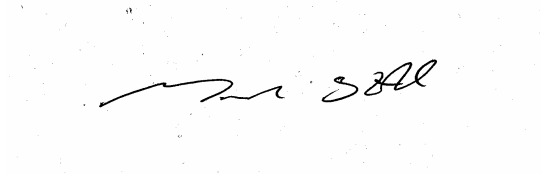
Subject to that and any final decision taken by Council if the Law Society's Boards were to proceed as they are currently minded to do we would discuss with you the best way of transferring the resources in the course of the next year. We have also alerted Group Finance to the possibility of such a transfer to advise the current business planning process.

We would be happy to meet to discuss this matter further.

Yours sincerely



Anne Godfrey
Director – Law Society Services



Mark Stobbs
Director – Legal Policy

Des Hudson
Chief Executive
Law Society
Chancery Lane
By email

21 November 2008

Dear Des

Accreditation

I am responding to the letter from Anne Godfrey and Mark Stobbs of 5 November 2008. Accreditation was also, of course, discussed at the last CRG meeting.

In the SRA's view, the wish of the representative part of the Law Society to take responsibility for accreditation schemes at this time, and without further detailed consideration, is unwise and inappropriate for the following reasons:

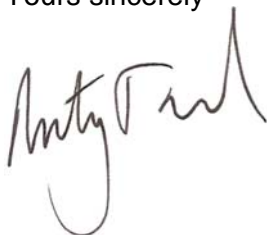
- The Law Society's argument depends on a distinction between voluntary and compulsory schemes. We doubt that such a distinction is a helpful one, or that members of the public would recognise such a difference. For example, membership of the Children's Panel is not technically compulsory, although the courts normally only appoint members of the Panel to represent children. Immigration and criminal practitioners are required to be accredited if they do publicly funded work, and this is the bulk of work in these fields. It is a technicality that the LSC enforces this requirement, rather than the SRA.
- It is one of the SRA's strategic objectives to 'set and communicate effective and proportionate standards of professional behaviour and performance.' As you know, the SRA's Education and Training Committee has been developing a quality and standards framework – see the Committee's paper from its November meeting for the latest position (copy **attached** for ease of reference). We plan to take this forward with considerable input from the profession. The development of a coherent framework of post qualification standards that will connect continuing professional development and standards of performance will provide an opportunity to develop a generic and coherent approach to accreditation as a principal delivery tool. This opportunity will be lost or greatly complicated if some of the schemes have been taken over by the representative part of the Law Society. We plan to publish an issues paper early in 2009 to facilitate an open discussion with the profession and other stakeholders, followed by a fuller consultation paper later in the year

- We expect this paper to consider the different ways in which the Law Society could engage with accreditation schemes. For example, in the future the Law Society might wish to promote and operate accreditation schemes, using standards that form part of the SRA's standards framework, and would be subject to SRA oversight of assessment requirements like any other provider. This seems to us to be the best means of delineating the respective roles of regulator and representative body.
- There is a risk of duplication and additional burden (and cost) on the profession if the Law Society takes over and develops accreditation schemes without regard to the regulator's requirements, the LSC's clearly expressed view that quality assurance of publicly funded work including accreditation schemes is a regulatory function, and wider strategy.
- The Law Society's position on non solicitor members of accreditation schemes is unclear, particularly in light of the outcome of the recent ballot on membership of the Law Society.

Against this background, we should be very happy to discuss these matters further with the Regulatory Affairs Board, as was proposed at the CRG. I hope this would avoid any proposals for transfer going to the December, since we think this would be both premature and most unwise. Were the representative Law Society to put proposals for the transfer of accreditation schemes to the Council in December the SRA would wish to ensure its views were clearly and fully articulated. The LSC would no doubt also want its voice to be heard

My email of 12 November followed up your comments at the CRG meeting about the discussions between SRA and TLS on these issues and I look forward to receiving your reply.

Yours sincerely



Antony Townsend
Chief Executive, SRA

Enc

cc Helen Davies
Anne Godfrey
Mark Stobbs



For consideration by the Education
and Training Committee on 4 November 2008

Developing a Quality and Standards Framework

Summary

1. This paper suggests, for the Committee's consideration and comment, an approach to quality and standards framework.

Recommendations

2. It is recommended that the Committee should consider and comment on the proposal to develop a quality and standards framework.

Annexes:

- | | |
|---------|--|
| Annex 1 | Slide representing different possibilities on assuring quality and standards of work undertaken by solicitors and SRA regulated entities |
| Annex 2 | Illustration of the complexity and detail of the standards |
| Annex 3 | Standards developed for use in the peer review project, used by the LSC |

Author: Julie Swan
Date: 21 October 2008



For consideration by the
Education & Training Committee
on 4 November 2008

Developing a quality and standards framework

Introduction

1. This paper suggests an approach to a quality and standards framework, for the Committee's consideration and comment. The paper outlines the architecture and rationale for such a framework. The detail in the annex paper is intended to be illustrative only.
2. The approach is based on the principles previously considered by the Committee, namely that any approach to quality assurance should:
 - be simple to understand and use and accessible to the public as well as to the profession
 - be designed to help and encourage individuals and entities to take responsibility for developing and delivering legal services to a quality of service that meets clients' expectations (recognising that these may vary and can be managed) and that clients are given correct and full advice
 - underpin any new approach to CPD
 - be generic – i.e. relevant to all types of practice and to all solicitors
 - identify both threshold, typical and excellence levels and it should help entities and individuals to benchmark themselves against sector norms and expectations
 - be developed with the profession and be informed by an understanding of public and client expectations

Overview

3. The proposed approach would be based on agreed standards of professional development and performance, prepared with input from the profession and the users of solicitors' services. The standards would link personal standards of knowledge, skills and behaviours with standards of advice and representation and the quality of service delivered by the individual solicitor within the practice environment in which they are working.

4. The approach would require solicitors to place themselves in one of three practitioner levels and to identify whether they have additional supervisory or management responsibilities.
5. For each of the levels there would be a succinct description of the generic knowledge, skills and behaviours and of the levels of service and advice that should be expected of a solicitor working at that level. A solicitor would use these descriptions to benchmark and plan their own development and to enhance their performance. The framework could be used by entities as they seek to assure themselves that they are satisfying their obligations to ensure members are working within their own levels of competence and are supervised appropriately.
6. Ideally, and in due course, the approach could be supported by an on-line tool kit of the type used by other professions that would help solicitors to self-assess their performance, to identify their development needs and to record their CPD. This would also help the SRA monitor compliance with any CPD requirements.
7. In addition, there would be standards for supervisors and for manager/owners.

Rationale

8. During its discussions on assuring the quality and standards of work undertaken by solicitors and SRA regulated entities, the Committee has considered where attention should be focused. The different possibilities were represented in the slide attached at annex 1.
9. The proposed approach would link both individual competence and performance with the environment in which the services were being managed and delivered.
10. The Committee has also highlighted the need for members of the profession to have the insight into, and understanding of, their own performance and development needs. The approach would facilitate this.
11. The SRA's current approach to CPD is understood within the profession and is simple to understand. It has been a feature of practice for so many years that it may now be regarded as a natural part of the landscape. However, when compared with CPD schemes for other professions that have more recently been developed or revised, it can appear weak. Debates about its reform have raised issues about the relative merits of an inputs or an outcomes based scheme – should the SRA continue to focus on and measure the amount of CPD undertaken (currently a solicitor working full time must undertake a minimum of 16 hours' CPD) or should the SRA focus on and measure the effectiveness and relevance of the personal development undertaken?
12. The proposed approach would link inputs and outcomes by requiring solicitors to plan and undertake CPD to reflect the level at which they were working, or to which they aspire, and to identify any aspects of their performance that could be enhanced. The current (or a modified/enhanced) CPD input requirement could be retained, as a simple to understand and monitor 'safety net'.
13. The role of accreditation schemes in any quality and standards framework needs to be addressed. The consultation on accreditation schemes undertaken

earlier in the year highlighted the possibility that all accreditation schemes could be underpinned by a set of generic standards. 52% of those who responded to the consultation were of the view that generic standards would be desirable. A larger majority were of the view that applicants for membership of the schemes should be assessed against competence standards rather than on the length of their experience or size of their caseload

14. The framework proposed would provide the basis for a common approach to the standards for each accreditation scheme. The generic standards could be contextualised, as appropriate, for the particular areas of practice covered by each accreditation scheme. The contextualised standards would provide the measure against which applicants would be assessed. The framework would allow for there to be more than one level of accreditation, if this was considered desirable. Having agreed the generic standards for all accreditation schemes to be recognised by the SRA, consideration could be given to different approaches to the operation of the schemes.
15. The framework would include sets of standards articulating the knowledge, skills and behaviours expected of solicitors, or those working in SRA regulated entities, who have supervisory responsibilities and those with responsibilities for management and/or ownership of an entity.
16. Currently a solicitor must, during their first three years after qualification, assuming they are practising, undertake a one day management course. The specification for this course is broad, allowing course providers to tailor the provision. The current Training Regulations provide for the SRA to require attendance on specific courses during the first three years of qualification only. A standards framework would provide a basis for reviewing the course specification, in due course.
17. Currently, a sole practitioner or one partner within each firm must have undertaken a minimum of least 12 hours training in management topics¹. This is a very general requirement. As new forms of practice are allowed, the SRA might wish to introduce training or specific competence requirements for supervisors or managers/owners. Having agreed standards in place would provide a basis for such an initiative.
18. Subject to the outcome of the current pilot, there might be a need to articulate standards for those with supervisory/assessment roles in a new work-based learning scheme. There might be value in placing such a set of standards within a coherent framework. Embedding any requirements within an overarching framework could provide an opportunity to emphasise that appropriate supervision and assessment of performance should not be limited to trainees.
19. It is difficult to envisage any approach to assuring quality that would not require the clear articulation of the standards to be required. Whether the approach was based on course attendance, self-assessment, peer review, external monitoring, encouragement or sanctions, there will need to be agreement about what is to be achieved or what is to be looked for. A quality and standards framework could, therefore, be developed ahead of any final decision on the use to which it would be put.

¹ The one day course that must be undertaken during the first three years of qualification/practice can count towards this requirement.

20. Developing one coherent framework, built on the day one outcomes, would provide an opportunity to work towards a consensus about the level of performance that should be expected of SRA regulated entities and individuals. The framework should be able to withstand and, indeed, accommodate new roles in SRA regulated practices, introduced as a result of the Legal Services Act. It would avoid the need to respond in an ad hoc way to introduce new, or reform existing, requirements.

Issues

21. The main challenge of the proposed approach would be to define the standards. They would need to be sufficiently general both to be relevant to all, regardless of the type of work undertaken, and so that they did not conflict with detailed, bespoke, competence frameworks or similar tools adopted by firms and other employers. On the other hand, they would need to be specific enough to be of value.
22. Involving the profession in the exercise to develop the standards would be essential, if the standards were to have credibility and value. However, there is a risk that experienced practitioners might over estimate the level of performance that can reasonably be expected of all solicitors. They might also find it difficult to develop generic standards, preferring instead to develop standards specific to particular areas of law or practice.
23. There is a risk that an overly detailed and complex approach could result from the exercise. Although the approach might be comprehensive and logical, an elaborate, or long and detailed product might be dismissed as bureaucratic, costly and of little practical value. The approach set out in annex 2 is intended to illustrate the nature of the standards (in terms of their complexity and detail) that might be appropriate².
24. The Committee has previously noted the standards developed for use in the peer review project, commissioned and used by the Legal Services Commission - see annex 3. These are generic and simple.
25. As previously acknowledged, many firms and organisations within which solicitors work, have developed or adopted their own competence or other form of standards frameworks. These tend to be more elaborate and sophisticated than envisaged for an SRA framework. Firms and employers frameworks will typically go beyond the public/client interest focus; they will address, for example, profitability and business growth as well as matters more concerned with the internal culture of the organisation. The SRA's framework could properly be focused on, or limited to, the standards of legal advice and representation, the quality of service provided and on professional conduct and regulatory requirements. This will be an important distinction

² NB the contents of the table are included to illustrate the level of detail that might be appropriate – the actual standards would need to be developed with care and over time, with considerable input from the profession.

Developing the framework

26. If the Committee was minded to develop the proposals for a quality and standards framework, the following steps would need to be taken, in the first instance:
- agree how the profession and users of solicitors' services should be involved with the development of the framework
 - agree a clear specification for the nature framework to be developed
 - agree a target timeframe for the project

Recommendations

27. It is recommended that the Committee should consider and comment on the proposal to develop a standards framework that would address both the levels of practitioner performance and supervisory and management standards.

Author: Julie Swan
Date: 21 October 2008

The organisation of the environment in which
legal services are provided
eg rules on management and supervision

The quality of the
service experience –
delay, communication etc

The competence of the individual
undertaking the work
eg through accreditation
or with responsibilities to manage
or supervise

The standard of the legal work
undertaken
eg through peer review

Level ³	Self assessment, evidence and action plans
<p>Practitioner level</p> <p>You will probably be working at this level if you have recently qualified or if you have moved into a new area/type of legal practice of which you have little relevant prior experience.</p> <p>If you are working at this level you should be able to, and do⁴:</p> <ul style="list-style-type: none"> • identify, interpret and apply the core areas of law that are relevant to straightforward and commonly encountered cases in the area(s) of practice in which you are working • explain to others, including clients, colleagues or other professionals, how the law applies to such straightforward and commonly encountered cases • explain to clients how their matters will be progressed, giving and achieving realistic targets • identify and complete, accurately and expeditiously, the procedural requirements necessary to progress the typical matters that you handle • identify the commercial, financial or social context within which the matters you deal with are set 	<p>To what extent do you fulfil these expectations?</p> <p>Consistently and fully Usually or partially Seldom or not at all</p> <p>With reference to each of the standards, what evidence is there to verify your self assessment, eg supporting statements from your manager/supervisor, examples from cases you have handled, supportive comments from clients?</p> <p>If you are not consistently and fully achieving all of the standards, what actions will you take to work towards the standards?</p>

³ The contents of this table are incomplete and for illustration only

⁴ The requirements could be contextualised for each accreditation scheme

Level³	Self assessment, evidence and action plans
<ul style="list-style-type: none"> • use different strategies to enable you to deal with unfamiliar scenarios – e.g. seek advice, undertake research • identify and deal with any matters of professional conduct that arise, referring matters to others and seeking advice where necessary • organise your files (paper or electronic) and notes so that a colleague could, without direction, identify the issues, actions taken and advice given on any particular matter • manage your time and your work so as to ensure that communication with clients and others is timely and any time constraints are met 	<p>Are there any reasons why you are not able to perform to the standard expected, other than those concerned with your own knowledge and skills, e.g. matters concerned with the way work is organised or allocated?</p>
<p>Advanced practitioner level</p> <p>You will probably be working at this level if you have a few years experience of the area of practice. In addition to the practitioner level standards you should, in addition, be able to and do:</p> <ul style="list-style-type: none"> • identify, interpret and apply the range of areas of law that are relevant to complex or unusual cases in the area(s) of practice in which you are working • explain to others, including clients, colleagues or other professionals, how the range of law applies to such complex and unusual cases • identify solutions and responses that are appropriate to 	

Level ³	Self assessment, evidence and action plans
<p>the particular commercial, financial or social context within which the matters you deal with are set, identifying and exploring alternative options</p> <ul style="list-style-type: none"> • respond appropriately and proactively to any matters of professional conduct that arise and that might be foreseen • 	
<p>Lead practitioner</p> <ul style="list-style-type: none"> • recognised internally and externally as having an expert knowledge and understanding of a particular body of law • able to deal confidently, quickly and creatively with novel and unpredictable legal scenarios • communicate persuasively... 	
Supervisor standards	
Manager/owner standards	

Annex 3

Extract from a paper considered by the Committee in September 2008

The Legal Services Commission's peer review process illustrates one of the approaches that could be adopted to articulating quality and standards. Its peer reviewers consider and rank a sample of actual client files as

- Excellence (1)
- Competence Plus (2)
- Threshold Competence (3)
- Below Competence (4)
- Failure in Performance (5)

Indicative descriptions of the ratings are:

Excellence (1)

Indicators of Excellence in the standard of work include:

- Clients' instructions are fully and appropriately recorded.
- Communication, advice and other work are tailored to each individual client's circumstances.
- Clients are all advised correctly and in full.
- All issues are progressed comprehensively, appropriately and efficiently.
- There is a demonstration of in-depth knowledge and appreciation of the wider context.
- There is excellent use of tactics and strategies, demonstrating skill and expertise, in an attempt to ensure the best outcomes for clients.
- The provider adds value to their cases, taking a fully proactive approach.
- There are no areas for major improvement.

Competence Plus (2)

Indicators of Competence Plus in the standard of work include:

- Clients' instructions are appropriately recorded.
- Advice and work is tailored to individual client's circumstances.
- Clients are advised correctly and in full.
- Issues are progressed comprehensively, appropriately and efficiently.
- Tactics and strategies are employed to achieve the best outcomes for clients.
- The provider adds value to cases and takes a proactive approach.

Threshold Competence (3)

Indicators of Threshold Competence in the standard of work include:

- Clients' instructions are appropriately recorded.
- There is adequate but limited communication with the client.
- The advice and work is adequate although it may not always be extensive and may not deal with other linked issues other than the presenting issue.

- There may be areas that the provider will need to address in order to progress towards Competence Plus (2) or Excellence (1).

Below Competence (4)

Indicators of Below Competence in the standard of work include:

- Information is not being recorded or reported accurately.
- Communication with the client is sometimes of poor quality.
- The advice and other work is inadequate.
- Some cases are not being conducted with reasonable skill, care and diligence.
- The timeliness of the communication, the advice or other work is sometimes inadequate.
- There are lapses below the required standard.

Failure in Performance (5)

Indicators of Failure in Performance in the standard of work include:

- Information is not being recorded or reported accurately.
- Communication with clients is often of poor quality.
- Cases in general are not being conducted with reasonable skill, care and diligence.
- The timeliness of the communication, the advice or work is often inadequate.
- There is a detrimental service to clients, or there is no meaningful service at all, or there is a service that leads to potential prejudice for the client.

The Solicitors Regulation Authority Board

26 The terms of reference of the Solicitors Regulation Authority Board are –

- (4) To deal with all matters relating to the setting and maintenance of ethical, conduct and quality standards (including accreditation schemes and panels, but only where these are mandatory) for –
- (a) solicitors (whether practising in England and Wales or elsewhere);
 - (b) recognised bodies;
 - (c) registered European lawyers;
 - (d) registered foreign lawyers, and
 - (e) any person employed or remunerated in connection with the practices of those listed in (a) to (d).

Deleted:) but without prejudice to the operation of voluntary accreditation schemes and panels by any representative part of the Society

In this paragraph, 'mandatory' means in relation to a particular form of accreditation a requirement either by statute or by the Solicitors Practice Rules that the person or body concerned must be accredited in order to be able, either lawfully or in accordance with the rules of conduct, to carry out the activity to which the accreditation relates.



COUNCIL
17 December 2008

Item 8a

Classification – Public

Purpose – For noting

PROFESSIONAL INDEMNITY INSURANCE

The Issues

This paper informs the Council about the problems that some solicitors experienced in obtaining professional indemnity insurance (PII) this year and how the Law Society proposes to respond to these problems. The Council is invited to note the report.

Policy Position

Not applicable.

Financial and Resourcing implications

Costs will be met from within the existing resources of the Legal Policy Directorate.

Equality and Diversity implications

It is clear that small firms have experienced the most problems in renewing PII this year and are likely to continue to do so. This sector includes many black and minority ethnic (BME) firms. Continued problems in obtaining PII may ultimately lead to the demise of practices in this sector, including BME firms. This will in turn reduce the choice of legal representatives available to the public. This paper sets out measures to alleviate the renewal problems.

Consultation

This paper was sent to the Indemnity Insurance Sub-Group of the Regulatory Affairs Board on 27 November 2008. This paper incorporates the members' comments. The Regulatory Affairs Board will consider this paper at its meeting on 16 December 2008. The Chair of the Board will report any significant comments to the Council.

The Law Society will survey and consult a range of solicitors, insurers, brokers and other representative organisations in developing its response to the issue.

Director: Mark Stobbs
Author: Katherine Hayman
Date of report: 1 December 2008

Background

1. In 1975 the Law Society established a compulsory PII scheme. Solicitors were required to be insured under the scheme as a condition of practice. The scheme was underwritten in the insurance market until 1987, at which time the Solicitors Indemnity Fund (SIF) was created in response to a hardening market. SIF afforded indemnity to all solicitors in private practice in England and Wales and had the advantage of spreading risk across the entire profession.
2. In the late 1990s SIF announced a very substantial shortfall, believed to be over £400m at one stage. The Law Society initiated a review of the PII requirements for solicitors which, amongst other things, considered whether SIF should continue to exist. Both the report and the Council decided that SIF should continue. However, the profession decided by ballot to put SIF into run-off. Reportedly there was a sense amongst many in the profession that SIF was inequitable because it involved strong firms subsidising weaker firms. In its place, the Council established a system under which firms could obtain PII on the open market. This development enabled the profession to take advantage of the lower premiums that were available at the time (see Annex A).

Developments in the PII market

3. This year the conditions in the PII market have deteriorated. Some insurers have shifted their target markets, while others have demonstrated a more cautious and selective approach in an effort to minimise risk. Annex B is a summary obtained by a regional manager which purports to show the respective share and gross written premiums of the qualifying insurers in 2007 and 2008. When shown this document, the Solicitors Regulation Authority (SRA) indicated that it had not seen it.
4. The impact of these developments on the profession has been largely negative. Since last year the overall premium level for the compulsory layer of cover has increased by 4.3 percent. It should be noted, however, that this brings it to the same level as for the 2006–07 indemnity period. Furthermore, qualifying insurers have consistently claimed that the premium level for the profession as a whole has been too low and should be increased.
5. The number of firms unable to obtain PII cover from qualifying insurers has also increased significantly. As of 2 December 2008, there were 141 firms in the Assigned Risks Pool (ARP), compared with 27 in 2007. This figure is not yet final as movements in and out of the ARP continue to occur.
6. The experience of the profession in the 2008–09 renewal exercise varied significantly between different sectors. While some firms were able to secure competitive premiums, other firms experienced increases of up to two and three fold or were unable to secure PII cover at all. Evidence received to date has indicated that smaller firms with either a claims record or a high proportion of conveyancing work were amongst the most severely affected. Some insurers refused to underwrite small practices regardless of the level of risk these practices pose, enabling the few remaining insurers to increase their premiums. One possible explanation for the different treatment of firms is that insurers prioritised the applications of large firms, thereby leaving insufficient time to consider small firms' applications properly. This problem was only exacerbated by the failure of some small firms to lodge their renewal applications until the last minute. This had not caused problems in previous years.

7. The 2008–09 indemnity insurance renewal exercise revealed that some brokers provided bad customer service to solicitors. The main problem encountered was brokers forcing solicitors into last minute choices to accept inflated renewal premiums.

Proposed response of the Law Society

8. On 1 December 2008 the Law Society published a notice in the *Gazette* to acknowledge members' widespread concerns about the PII market. The notice also informed members that the Law Society is examining the evidence and considering what action it can take to assist them.
9. The Indemnity Insurance Sub-Group met on Tuesday 11 November 2008 to discuss the developments in the PII market and how the Law Society can best assist the profession. The Sub-Group proposes to consider a number of measures to respond to the developments. In particular, it wants to take action to minimise the chance of solicitors experiencing the same problems when renewing their PII cover next year. The proposed measures are outlined below.

Legal advice

10. It is unlikely that the provision of bad customer service by some brokers to solicitors will readily translate into a successful litigation challenge. Nonetheless, the Law Society will be jointly instructing counsel with one of the firms affected to advise on the duties owed by brokers to solicitors and on the merits of any claim against brokers by the firm. This advice will be taken from a Queen's Counsel who is pre-eminent in the field of insurance. Strategy will be assessed in the light of that advice.

Insurance advice

11. A consultant actuary will be engaged to advise on a number of issues relevant to the PII market. It is anticipated that the consultant would be engaged in January 2009 and report back in mid-February 2009. The consultant will advise on the following issues:

- *Single renewal date*

Currently all PII renewals take effect from 1 October each year. In a soft market, simultaneous renewal can result in greater competition and lower premiums. However, some solicitors have complained that the single renewal date is detrimental to smaller practices, particularly in a hardened market, where priority is often given to the larger practices. These solicitors claim that insurers and brokers may be complacent when it comes to smaller practices due to their position of power, and consequently, give late notice of premium increases and non-renewals. The consultant will advise about the merits of retaining a single renewal date, as opposed to staggering renewal dates throughout the year. The Law Society is also seeking a copy of an advice provided to the SRA on this issue.

- *Assigned Risks Pool*

Until now the ARP has provided cover largely for firms that did not meet acceptable performance arrangements and that were therefore unable to obtain cover. This is no longer the case. Restricted access to PII cover has meant that a broader range of firms has been forced to enter the ARP. Even some firms with a clean claims history and good risk management strategies have been left with no other option if they are to continue operating. The consultant will consider whether the nature of the ARP has changed to such an extent that fee or structural changes are required. The consultant will also advise about whether it is preferable to find another source of PII for firms

that are unable to obtain cover due to the hardening market, as opposed to unacceptable performance arrangements.

- *Other options*

The consultant will advise about whether there are any further options that may assist solicitors to obtain PII in the future. In particular, there may be options that would specifically assist the sectors of the profession that were most severely affected by the hardened market, such as a cooperative scheme.

Discussions with insurers and brokers

12. Following complaints about unsatisfactory practices on the part of some insurers and brokers, the Law Society will discuss appropriate service levels with insurers and brokers. The aim of the discussions will be to assist the SRA to reach an agreement on what service standards can be expected in the renewal process. These standards may include time limits for lodging and processing of applications. Discussions will commence in December 2008.

Practice note

13. The Law Society will publish a practice note in the *Gazette* in March 2009 to advise solicitors about how best to source PII prior to next year's renewal deadline. The advice will be based on information received from solicitors, insurers and brokers over the coming months.

Contingency plans for insolvent insurers

14. The Law Society will review the SRA's current contingency plans in place in the event that an insurer becomes insolvent. It will discuss these plans with the SRA and consider whether the Law Society needs to adopt its own action plan for this situation. Given the extraordinary events of the past two months in the financial markets, the review is considered prudent, even if there is no evidence that any such failure is likely.
15. Work is also underway on a draft practice note to give advice on what happens if a qualifying insurer becomes insolvent. The draft practice note will advise on the ARP and on sourcing alternative PII. It will also advise on coverage and claims under the Financial Services Compensation Scheme. The draft will not be published unless failure happens.

Successor practice rules

16. The successor practice rules apply when practices merge or are otherwise restructured to determine responsibility for the liabilities of previous practices. The Law Society will investigate whether adapting the rules on PII liability would facilitate mergers and restructuring of practices.

Run-off cover

17. When firms cease practice, their last insurer is responsible for providing run-off cover for a mandatory 6-year period. In consultation with the SRA, the Law Society will investigate the experience of the profession in terms of the cost of run-off cover. It will assess the impact of the hardening PII market, especially on sole practitioners looking to retire. The Law Society will use this information to consider whether a collective arrangement is required to provide effective run-off cover.

Financial and Resourcing implications

18. Costs will be met from within the existing resources of the Legal Policy Directorate.

Equality and Diversity implications

19. Continued problems in obtaining PII for small firms may ultimately lead to the demise of practices in this sector. This is likely to include BME firms, which are significantly represented amongst small firms. This will in turn reduce the choice of legal representatives available to the public. To alleviate these problems, the Law Society will consider a number of measures to assist the profession, including measures designed specifically for the sectors most severely affected by the renewal problems.

Consultation

20. The Law Society will survey and consult a range of solicitors, insurers, brokers and other representative organisations in developing its response to the issue. The Law Society is also encouraging the SRA to collaborate on the above measures.

A Comparison of Total Gross Fees and Total Professional Indemnity Premium

1996 gross fees certificate covering 1995/1996 - £7.4bn	SIF
Contribution 1997/1998 £269.9m (3.6%)	
1997 gross fees certificate covering 1996/1997 - £8.0bn	SIF
Contribution 1998/1999 £235.8m (3.0%)	
1998 gross fees certificate covering 1997/1998 - £8.6bn	SIF
Contribution 1999/2000 £255m (3.0%)	
1999 gross fees certificate covering 1998/1999 - £9.5bn	Market
Premium 2000/2001 £154m (1.6%)	
2000 gross fees certificate covering 1999/2000 - £10.5bn	Market
Premium 2001/2002 £166.3m (1.6%)	
2001 gross fees certificate covering 2000/2001 - £11.5bn	Market
Premium 2002/2003 £225.5m (2.0%)	
2002 gross fees certificate covering 2001/2002 - £12.4bn	Market
Premium 2003/2004 £251.4m* (2.0%)	
2003 gross fees certificate covering 2002/2003 - £14.0bn (1.7%)	Market Premium 2004/2005 £242.7m
	Market Premium 2005/2006 £244.8m**
	Market Premium 2006/2007 £215.6m
	Market Premium 2007/2008 £206.8m
	Market Premium 2008/2009 £215.6m

(provisional)

* The 2003/04 indemnity year is from 1/9/03 to 30/9/04 (13 months). The figure is based on 12/13th of the premium of £272.3m for the 13 month period.

** Compulsory cover increased from £1m to £2m for sole practitioners and partnerships and from £1m (plus an additional £0.5m of cover which did not have to be Qualifying Insurance) to £3m for recognised bodies (LLP's and Ltd companies).

Insurer	2008 Share %	% Share Var.	2008 GWP	% GWP Var.	2007% 2007 GWP	2007 GWP
Zurich Professional	17.024	-9.03	£36,705,935	-5.15	18.714	£38,699,177
St Paul Travelers	16.21	16.28	£34,950,846	21.24	13.941	£28,828,964
AIG Europe	15.946	13.16	£34,381,628	17.99	14.091	£29,139,153
QBE International	14.405	9.35	£31,059,034	14.02	13.173	£27,240,796
Quinn Direct Insurance	10.203	92.84	£21,998,981	101.06	5.291	£10,941,399
Royal & SunAlliance	6.999	-11.34	£15,090,745	-7.56	7.894	£16,324,212
Norwich Union Insurance	4.79	-42.15	£10,327,856	-39.68	8.280	£17,122,432
W R Berkley Insurance (Europe)	2.829	-27.98	£6,099,688	-24.91	3.928	£8,122,815
Libra (Barbican Syndicate)	2.291		£4,939,691			
ACE European Group Ltd	2.218	-31.73	£4,782,293	-28.82	3.249	£6,718,693
Catlin Insurance Co	1.399	-47.35	£3,016,424	-45.10	2.657	£5,494,481
Libra (QBE Syndicate)	1.209		£2,606,760			£0
Aspen Insurance Uk Ltd	1.038		£2,238,062			£0
Liberty Mutual Insurance	0.751	-69.41	£1,619,253	-68.10	2.455	£5,076,760
A G Dore & Others Syndicate 2526	0.473	-27.23	£1,019,849	-24.13	0.650	£1,344,152
Solicitors Indemnity Mutual Insurance	0.464	-4.33	£1,000,444	-0.25	0.485	£1,002,944
D A Constable	0.397	-56.08	£855,983	-54.21	0.904	£1,869,406
Chubb Insurance Co	0.394	-18.60	£849,515	-15.12	0.484	£1,000,876
Hiscox Insurance Co	0.371	307.69	£799,924	325.08	0.091	£188,181
Pembroke Syndicate	0.278		£599,404			£0
International Insurance Company of Hannover	0.152	-33.62	£327,732	-30.79	0.229	£473,555
Hiscox Syndicate 33	0.093	-24.39	£200,520	-21.17	0.123	£254,355
Newline Underwriting Management	0.06	400.00	£129,368	421.33	0.012	£24,815
Newline Insurance Company Limited	0.006	-91.67	£12,937	-91.31	0.072	£148,891
Dual Corporate Risk		-100.00	£0	-100.00	0.690	£1,426,869
Houston Casualty			£0			£0
Mitsui Sumitomo Insurance			£0			£0
MJ Harrington		-100.00	£0	-100.00	2.455	£5,076,760
Navigators			£0			£0
Novae Insurance Company Limited		-100.00	£0	-100.00	1.122	£2,320,214
Quanta Syndicate		-100.00	£0	-100.00	0.263	£543,865
SVB Syndicate 1007			£0			£0
SVB Syndicate 2147			£0			£0
TOTAL			£215,612,870	104.27		£206,792,653

TOTAL

£215,612,870

104.27

£206,792,653



The Law Society

Item 9

COUNCIL
17 December 2008

Classification – Public

Purpose - For noting

REPORT OF THE CHAIR OF THE BOARD OF THE LEGAL COMPLAINTS SERVICE

The Issues

The regular update to Council. Council is invited to note the report.

Policy Position

Not applicable.

Financial and Resourcing implications

The report contains financial and resource implications in respect of the Business Plan 2009-10, E&D action plan, transition arrangements, Coal Health Phase 2 and the cost reduction target.

Equality and Diversity implications

The report contains equality and diversity implications in respect of the Business Plan 2009-10, E&D action plan, transition arrangements, Coal Health Phase 2 and the cost reduction target.

Consultation

This report contains information relating to the views of the Board of the LCS as expressed at its meeting on 26 November 2008.

Author Shamit Saggat, Chair of the Board of the Legal Complaints Service.
Date of report 1 December 2008

1 Meeting of the Board of the Legal Complaints Service

The Board of the Legal Complaints Service met on 26 November 2008. Part of the Public section was attended by TLS' Council President, Paul Marsh, accompanied by Sheila Spicer, Director. Paul Marsh is due to visit LCS in Leamington Spa on 9 December 2008. Below is a summary of the discussions held at the Board meeting: -

- **LCS Equality and Diversity (E&D) action plan**
Following feedback from stakeholders including TLS, the Board confirmed its view that delivery of the plan is essential in order that LCS is and is seen to be, meeting its public duty and is legally compliant.
- **Draft pan-Society E&D strategy**
The Board welcomed the concept of a group strategy and discussed the draft. LCS will now share its comments with TLS.
- **Business plan 2009-10**
The Board approved the plan, which has now been submitted to Management Board for its consideration.
- **Informing the profession**
The Board reaffirmed its commitment to assisting with the improvement by solicitors of complaints handling processes. The achievements of the London-based LCS team in respect of informing the profession and which have been delivered in addition to its business-as-usual complaints handling, were commended. The importance of this work continuing at a high quality level was noted.
- **Transition arrangements**
An ad hoc meeting of several members of the Board of the LCS took place in the weeks prior to the Board meeting of 26 November. The purpose of this meeting was to identify options for the Board to consider with regards to developing a view as to the preferred transition model. The primary focus of the discussion was the 'hybrid' option whereby the output from what would appear as a single organisation/brand (OLC) is generated by two concurrently (for a finite period) running organisations. This would mean that, for the necessary period, the LCS would work to close complaints that were made to it, whilst the OLC is simultaneously case working any new complaints. Further work on modelling will be carried out.

Separately, Elizabeth France, Chair of the Board of the OLC, will visit LCS in Leamington Spa on 8 December 2008. On 17 December 2008 the Chair of the Board of the LCS will meet with Lin Hinnigan's replacement, Doctor Elizabeth Gibby, the new Head of Legal Services at the Ministry of Justice's Regulation and Redress Division.

TLS' consultation on possible changes to the Law Society's Code of Practice on Freedom of Information

Management Board has decided that the Society should consult major stakeholders about possible changes to the Law Society's Code of Practice on Freedom of Information. LCS has been invited to provide its views. Following the Board meeting of 26 November, LCS has reached a settled view on this, which will be shared with the Society by 31 January 2009 as requested.

2 Equality and Diversity (E&D) Update:

▪ E&D Training

The E&D e-learning training package 'went live' on Monday 10 November 2008. This was initially completed by SMT and was rolled out to all staff on Monday 17 November.

▪ DAG

The Disability Advisory Group (DAG) met for the first time on Monday 3 November 2008. The meeting was positive and a number of initiatives were discussed including improving our external website access for disabled people and producing some guidelines for staff working with disabled customers. The group was keen on working with LCS and TLS in order to action our objectives as outlined in TLS's disability equality scheme and the LCS strategy. TLS expressed an interest in attending future meetings to address group wide issues.

▪ EqIA

Equality impact assessments are ongoing on a number of key areas of service delivery - full assessments with recommendations from the findings will be presented to the LCS Diversity Working Group (DWG) on 2 December 2008. Findings from the assessments will be included in the January 2009 quarterly report to Management Board on progress on the strategy.

3 Coal Health

a) Phase 2

The LCS is in the process of analysing and comparing response rates and customer satisfaction feedback in respect of the two different simultaneous mail-outs to former miners potentially affected by the issue of inappropriate deductions from industrial diseases compensation payments. This is in order that we can tailor our future Phase 2 approach to ensure that communications are as impactful as possible.

b) Ex-Gratia payments

All payments to former miners have now been completed.

4 Cost reduction target

The LCS is on track to achieve its originally forecasted £1.4 million of potential savings by year end 2008. TLS has committed to reducing the cross-charge to LCS by £0.5million.

LCS has planned for further cost reductions in 2010 and has submitted a budget showing in excess of a 10% reduction.

5 October 2008 - summary of performance measures

Headlines against plan targets

Doing it quickly				
	Current month	Year to date	Plan Target	Variance
Target T1: To investigate and close all complaints within 12 months, apart from in exceptional circumstances				
Cases closed with no exceptional circumstances	0	1	0	1
Target T2: To refer to the SRA within 3 months of receipt all matters of misconduct identifiable at the time				
Referrals within 3 months	95%	98%	100%	-2%
Getting the right answer				
Target Q1: We will achieve a reasonable outcome and service, without significant failings, on at least 90% of cases closed. (This is measured quarterly).				
Cases	88%	88%	85%	3%
Target Q3: Referrals to the LSO in which the LSO upholds the handling of the case (This target does not come into effect until January 2009).				
Referrals upheld by LSO	53%	66%		
Informing the customer				
	Year to date	Plan Target	Variance	
Target S1: We will ensure at least 80% of our customers are satisfied with our service.				
Customer satisfaction	85%	80%	5%	
Target P1: Initiatives to support the delivery of the Law Society's plan are delivered to time and cost in accordance with the plan				
Delivery	100%	100%	0%	
Coal health complaints				
Target M1: We will fully investigate the case and inform the customer, in at least 90% of cases, of adjudication as an option to conciliation, the seriousness category of their complaint and the likely size of award at adjudication and the amount of distress and inconvenience likely to be due in addition to any financial cost. (This is measured quarterly).				
Cases	93%	93%	0%	

Questions and requests for further information

If Council members have questions relating to this report or wish to have additional information about any aspect of the work of the Board of the LCS, I would be grateful if they could email me in advance of the meeting, so that I can ensure that I am appropriately briefed to answer their questions (either written or orally). Requests should be sent to:

Shamit Saggar - Chair of the Board of the LCS - Shamit.Saggar@legalcomplaints.org.uk
and copied to

Claire McCarthy - Executive Assistant - Claire.McCarthy@legalcomplaints.org.uk

Shamit Saggar

Chair of the Board of the Legal Complaints Service

1 December 2008



The Law Society

COUNCIL
17 December 2008

Item 10

Classification – Public

Purpose – For noting

REPORT OF THE CHAIR OF THE SOLICITORS REGULATION AUTHORITY BOARD

The Issues

This paper is the periodic report of the Chair of the SRA Board.

Policy Position

N/A

Financial and Resourcing implications

There are no direct implications to the report. Issues relating to the Business Plan and the Compensation Fund are reported in paragraphs 2 and 7.

Equality and Diversity implications

There are no direct implications to the report. Issues relating to decision making principles are reported in paragraph 8.

Consultation

This report has been prepared directly for Council.

Author: Peter Williamson, Chair SRA Board
Date of report: 1 December 2008

1. The Board met on 20 November when it considered the following matters:

BUSINESS PLAN

- 2 The Board made arrangements for further work on finalising the business plan and budget, which appear elsewhere on Council's agenda.

LEGAL SERVICES ACT 2007: CHANGES TO SRA RULES & REGULATIONS

- 3 The Board considered a further paper dealing with rules changes in connection with the rewrite of s9 of the Administration of Justice Act 1985 which followed representations made to the Ministry of Justice by the SRA, the representative Law Society and the City of London Law Society. In October the Board approved rule changes flowing from that rewrite, subject to a further month's consultation. The paper before the Board in November proposed additional changes made in response to representations made during that period of consultation.
- 4 Subject to the necessary concurrence, the Board made the Solicitors' Code of Conduct (LDPs and Firm Based Regulation) Amendment (No. 2) Rules [2009], the SRA Recognised Bodies (Amendment) Regulations [2009] and the SRA Practising (Amendment) Regulations [2009].

LEGAL SERVICES ACT 2007: SOLICITORS (KEEPING OF THE ROLL) REGULATIONS

- 5 The Board agreed to ask the Master of the Rolls to make the Solicitors (Keeping of the Roll) Amendment Regulations [2009], subject to concurrence, which will determine the information to appear on the roll in respect of each solicitor. This information will be: full name and date of birth (subject to confidentiality); SRA registration number; date of admission; principal place of business in the case of a practising solicitor (subject to the SRA's discretion to withhold) or address for correspondence in the case of a non-practising solicitor (subject to confidentiality); a note about any suspension of the solicitor from practice, or the suspension of the solicitor's practising certificate; and any other information from time to time prescribed by the SRA.

CODE OF CONDUCT: RULE 11 (LITIGATION & ADVOCACY) AMENDMENT

- 6 The Board made changes to Rule 11 in the Code of Conduct concerning litigation and advocacy. The changes arise from inadvertent "over regulation" in two areas when last minute alterations were made to Rule 11 during the Code's approval process.

COMPENSATION FUND – RESERVE SETTING AND RECHARGES

- 7 The Board considered and settled a policy on recharges and reserve setting which will be considered by the Council at its January meeting.

DECISION-MAKING PRINCIPLES

- 8 In the light of recommendations in the Ouseley report, the Board made changes to its decision-making principles to make explicit the need to embed equality and diversity principles in decision making.

CHIEF EXECUTIVE'S REPORT

- 9 The Chief Executive reported on various operational matters within the SRA, covered in the attached Chief Executive's report.

COMMITTEES

- 10 The Education & Training Committee met on 4 November when it considered an approach to a quality and standards framework, including a proposed architecture and rationale. It was proposed that the approach be based on agreed standards of professional development and performance, prepared with input from the profession and the users of solicitors' services. The standards linked personal standards of knowledge, skills and behaviours with standards of advice and representation and the quality of service delivered by the individual solicitor within the practice environment.
- 11 The Financial Protection Committee met on 7 October when it was updated on the state of the insurance market. The Committee was informed that renewal was difficult this year and that pricing was very sensitive to claims. On the other hand, in some cases pricing had been very competitive, with some discount available (usually for larger firms). The firms finding it most difficult or whose premiums had increased most were small firms with conveyancing practices.
- 12 The Compliance Committee and the Scrutiny Committee will meet on 2 and 3 December respectively. The Compliance Committee will give preliminary consideration to the subject of referral arrangements ahead of the Board's review of the subject on 18 December.

Further information

- 13 A copy of the Chief Executive's report to the November Board meeting is attached. If Council members wish to have additional information about any aspect of the Board's work, I would be grateful if they could email me (Peter.Williamson@sra.org.uk) and Antony Townsend (Antony.Townsend@sra.org.uk) in advance of the Council meeting, so that I can ensure that I am briefed to answer their questions as fully as possible.

Chief Executive's report

PUBLIC

1. Introduction

- 1.1 This paper provides an update for the Board on key issues in SRA. It is presented by reference to the Board's strategic objectives.

2. Recommendation

- 2.1 The Board is asked to note the report.

3. Setting the standards

Progress report from the Standards Directorate

3.1 Policy

Legal Services Act 2007

- 3.1.1 Progress continues in implementing what is for us the first phase of the LSA - the introduction of legal disciplinary practices (LDPs), firm based regulation, and related changes in the SRA's regulatory powers. This work continues to involve staff across the SRA, and includes detailed work on forms, policies, office procedures and IT processes, as well as the development of an appropriate structure of fees and contributions for the new firm-based regulatory regime. We have made concerted attempts, with the assistance of the Law Society, to obtain feedback from a diverse range of stakeholders.
- 3.1.2 On 16 October the Board made the Solicitors' Compensation Fund Rules [2009], and these have been sent to the Master of the Rolls and the Lord Chancellor for their concurrence.
- 3.1.3 The agreed order has now been laid before Parliament to amend the Legal Service Act (LSA) to allow more than two tiers of corporate ownership in a recognised body. The order amends the new section 9A of the Administration of Justice Act 1985 which defines a "legal services body" - i.e. a partnership, LLP or company which the SRA can recognise as a recognised body. At the meeting on 16 October, the Board approved in principle, and subject to further consultation, further amendments to the rules and regulations already made by the Board on 24 July. These amendments are needed to comply with the requirements of new section 9A, and also to repair errors, omissions and ambiguities, mostly of a very technical nature, in the rules previously made. The Board is being asked formally to make the new amendments at this meeting. The amended Code of Conduct as made on 24 July, together with the new amendments approved in principle on 16 October, is currently being considered by the Legal Services Consultative Panel.
- 3.1.4 There has been intensive work on revising the Guidance to the rules in the Code of Conduct so as to ensure that it will correspond to the Code as amended to

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implement LDPs and firm based regulation. See below under Ethics Policy Team.

- 3.1.5 The text of an order exempting non-lawyer managers of recognised bodies from the Rehabilitation of Offenders legislation has been agreed, and this will be laid before Parliament shortly. Liaison is continuing with the Ministry of Justice on five other statutory instruments required to implement LDPs and firm-based regulation - the third LSA Commencement Order, instruments applying the new provisions registered European lawyers and registered foreign lawyers, an order applying the existing law to new types of recognised body, and a new Non-Contentious Business Remuneration Order.
- 3.1.6 On 21 October the Master of the Rolls concurred in the amendments to the Solicitors' Indemnity (Enactment) Rules 2007, and made the Solicitors' Training Regulations [2009], the Qualified Lawyers Transfer Regulations [2009] and the Solicitors' Admission Regulations [2009] - this may be seen as an important step in the process of obtaining all the external approvals we need in implementing the provisions of the LSA.
- 3.1.7 Work is continuing on:
- the SRA Disciplinary Rules to allow the SRA to rebuke and fine solicitors and firms, and “managers” and employees of firms,
 - the regulations to allow the SRA to levy charges on solicitors and firms, and “managers”, employees and owners of firms, for investigations into their conduct, and
 - the Statutory Trust Rules, to govern the SRA’s treatment of sums vested in the Law Society by virtue of the exercise of the SRA’s intervention powers.
- 3.1.8 The SRA is continuing its discussions with the Legal Services Board about what is for us the second phase of the LSA - the implementation of alternative business structures (ABSs). However, work on developing an SRA policy document for internal discussion and external consultation on ABSs has had to take second place to the intensive work on doing all we can to meet our timetable for LDPs and firm based regulation.
- 3.1.9 The SRA is committed to the dates of 1 March 2009 for LDPs, the firm based regulation of partnerships and related changes to the regulatory regime, and 1 July 2009 for firm based regulation of sole practices and changes to the regime for admissions and practising certificates. The MoJ is also committed to doing whatever it can to meet this timetable.
- 3.1.10 The SRA is liaising with the approved regulators of other lawyers on areas of mutual interest, including indemnity and compensation arrangements, information sharing and memoranda of understanding.

The Solicitors’ Code of Conduct

- 3.1.11 We still await the concurrence of the Master of the Rolls and the Lord Chancellor and the approval of the Secretary of State on the changes to the Code to

SRA BOARD
20 November 2008

implement the LSA. Work continues on amending the guidance which accompanies the rules in the Code to reflect the changes made. The guidance will be considered by the Rules and Ethics Committee at its meeting in November.

- 3.1.12 We are in the process of formulating guidance to support the requirement for independence in rule 1. The need for such guidance has been highlighted by requests for advice, and in response to attempts by some firms to “jump the gun” by establishing what amounts to an ABS. The Rules and Ethics Committee will also consider this guidance at their November meeting.
- 3.1.13 There has been further consideration of the draft consultation on the changes to rules 3 (conflicts of interest) and 4 (confidentiality and disclosure) proposed by the City of London Law Society. An amended draft is being prepared for consideration by the Rules and Ethics Committee.
- 3.1.14 “Unsolicited visits”: the interim guidance which the Board has approved now appears on the SRA’s website. It is hoped the *Gazette* will publish a notice concerning the rule change, amended guidance and interim guidance in due course.

Accounts Rules

- 3.1.15 The SRA still awaits the concurrence of the Master of the Rolls, and of the Lord Chancellor, to the changes made to the Accounts Rules to implement the Legal Services Act.
- 3.1.16 At its November meeting, the Rules and Ethics Committee will give its initial views on various exploratory proposals made by the Compliance Committee to reduce the risks arising from holding client money.

Referral arrangements

- 3.1.17 Work on the review continues and is being co-ordinated by the Director of Standards. The report is being prepared for consideration by the Board at its December meeting.

Relations with Office of the Immigration Services Commissioner (OISC)

- 3.1.18 We are continuing to work with the OISC on a number of guidance issues.

Relations with the Claims Standards Regulator

- 3.1.19 We continue to work closely with the Ministry of Justice. At our liaison meeting in October we discussed a number of issues including agreeing a revised memorandum of understanding; developments in the market; the procedure when solicitors may be required to produce information under the Compensation Act to the MOJ; exempt introducers; the SRA’s interpretation of “unsolicited visits” and our ongoing work on referrals.

Framework Services Directive.

SRA BOARD

20 November 2008

3.1.20 As part of the work involved in the implementation of the Directive, the European Commission is considering whether to include the legal profession in the Internal Market Information System (IMI) pilot programme. This would establish an automated information exchange between competent authorities and assist in verifying information and qualifications. The Department for Business Enterprise and Regulatory Reform (BERR) has asked the SRA if it would be interested in participating in this pilot as a competent authority. The SRA has indicated that it would be interested in principle in participating. The Information Directorate is working with the Change Programme to determine whether involvement in the pilot will be feasible from a budgetary/resource point of view, bearing in mind the significant resources needed for the implementation of LDPs and firm-based regulation.

3.2 Education and Training Unit

3.2.1 JASB discussed a first draft of proposed revised terms of reference for the Board. An amended version will be brought to the respective Education and Training Committees in December. We are aiming to start recruiting for new members in Jan/Feb with a view to the reconstituted Board commencing work in September 2009.

Legal Practice Course

3.2.2 Applications were received from 18 organisations wishing to be authorised to provide LPCs. Most of the organisations have also submitted detailed proposals of the courses for which they are seeking validation to provide from 2009. The programme of authorisation/validation events runs from 22nd October - 10th December. The next stage of the LPC reform programme is to advertise for, select and prepare a new cadre of external examiner.

Work based learning

3.2.3 The pilot is now launched. The following activities have recently taken place –

- Agreement of contract with Oxford Brookes University (subject to minor drafting points) and SRA staff review of their materials
- Launch event / initial review meetings for candidates at Nottingham Law School
- Launch event / initial review meetings for candidates with Oxford Brookes University
- Workshops for Internal Assessment Organisations
- Visits by Tim Pearce to Leeds City Council and Campbell Hooper to resolve points of detail

Presentations by Nottingham Law School, Oxford Brookes University and Jones Day, one of the Internal Assessment Organisations, were given to the Committee meeting.

Qualified Lawyers Transfer Arrangements

3.2.4 We sought preliminary and informal feedback on the proposals from the Law Society and relevant UK bodies. The feedback highlighted the opportunity to

SRA BOARD
20 November 2008

clarify a couple of aspects of the proposals in the final consultation paper. To encourage a large number and range of responses, we are drafting a summary version of the full consultation paper that we intend to publish alongside the full version. The consultation exercise should run from the 11th of November for at least 12 weeks.

Higher Rights of Audience

- 3.2.5 Subsequent to the SRA Board approvals, the extension to the Regulations has been sent to the MoJ for approval under the schedule 4 procedure. The new Solicitors' Higher Rights of Audience Regulations 2009, are being finalised and the small changes will be agreed by Chair's action ahead of forwarding to the MoJ. A letter will be sent to all current qualification holders explaining the position.

Quality assurance scheme for advocates

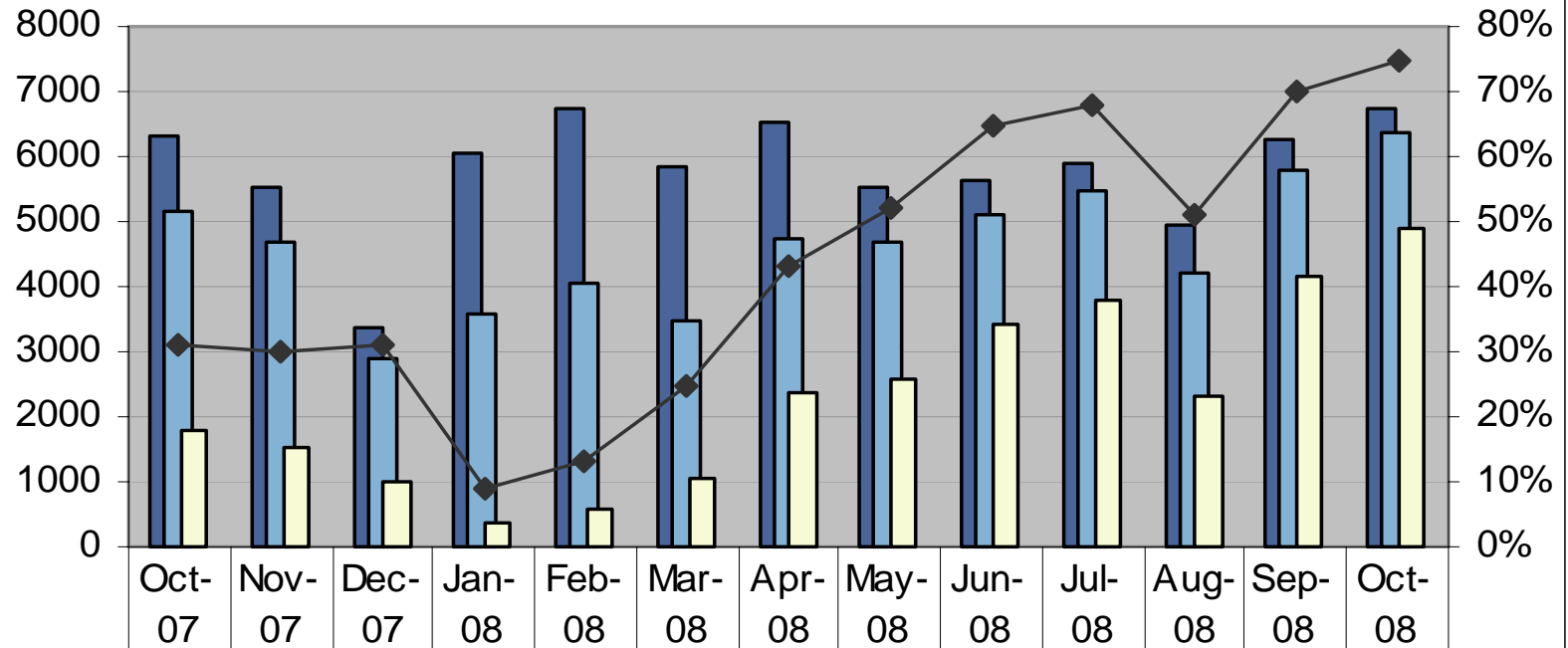
- 3.2.6 The joint work on the above schemes continues and it has been confirmed that Cardiff University have won the tender for the pilot activities which will be undertaken between now and September 2009. Three phases are envisaged:
1. Research and proposals;
 2. Piloting of testing methods and passporting arrangements; and
 3. Evaluation.

Strengthening the training contract project

- 3.2.7 Work continues on the project. The project initiatives were discussed again at QASC's meeting in October. It has been agreed that there should be 2 sequential stages to the project; firstly, the rewriting and repackaging of compliance guidance and best practice literature and, secondly, work to refocus the inspection process and to ensure that this is aligned with risk assessment measures.

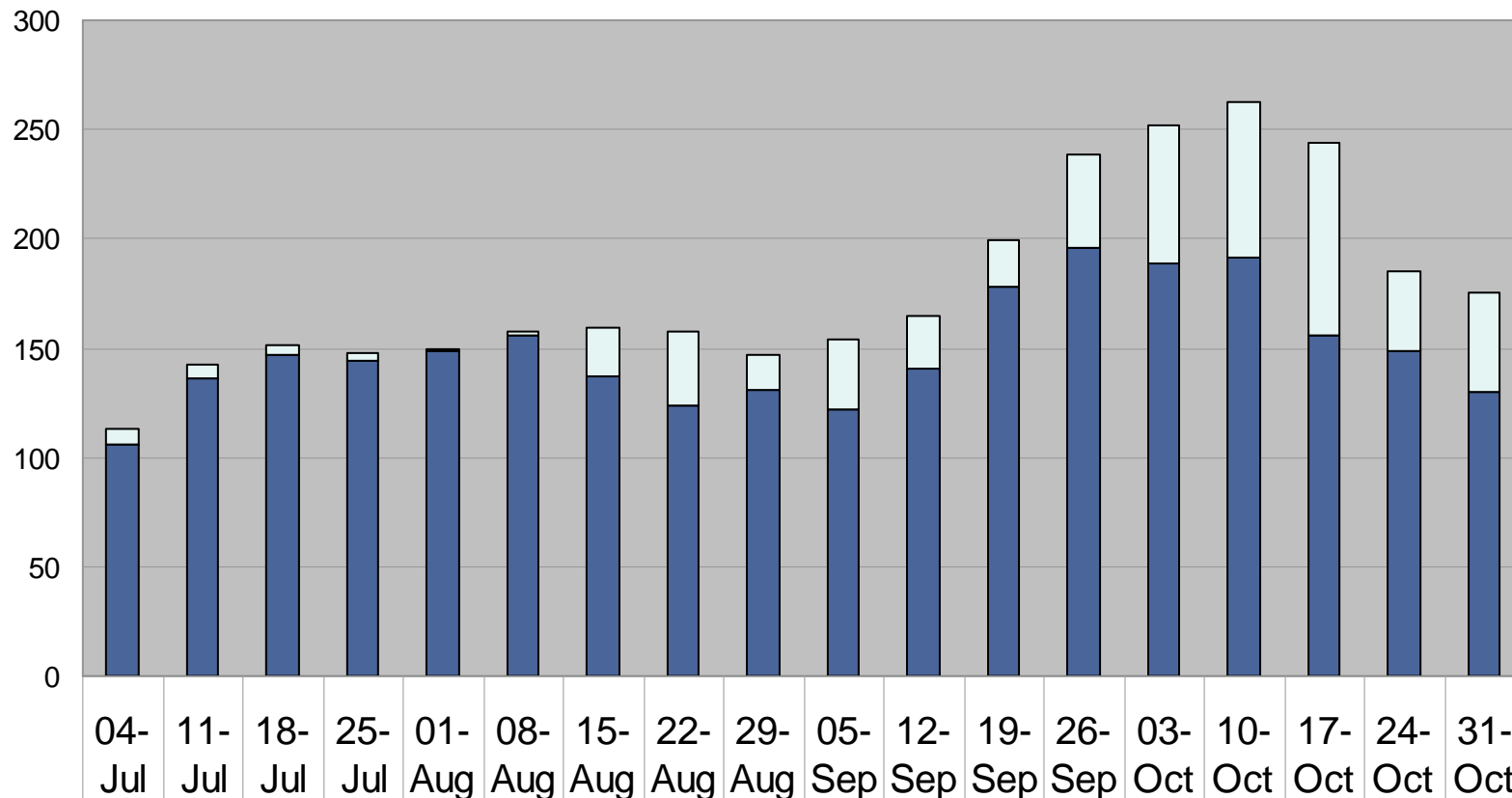
SRA BOARD
20 November 2008

**Professional Ethics Guidance Team
Calls to the Ethics Guidance Helpline**



No. Received	6323	5513	3349	6038	6717	5834	6551	5505	5637	5908	4950	6238	6743
No. Answered	5141	4700	2878	3577	4031	3500	4761	4660	5120	5462	4207	5792	6357
Calls to Target	1792	1516	981	352	583	1036	2380	2559	3399	3782	2297	4141	4885
% SL	31%	30%	31%	9%	13%	25%	43%	52%	65%	68%	51%	70%	75%

Ethics - Correspondence awaiting response as at week end



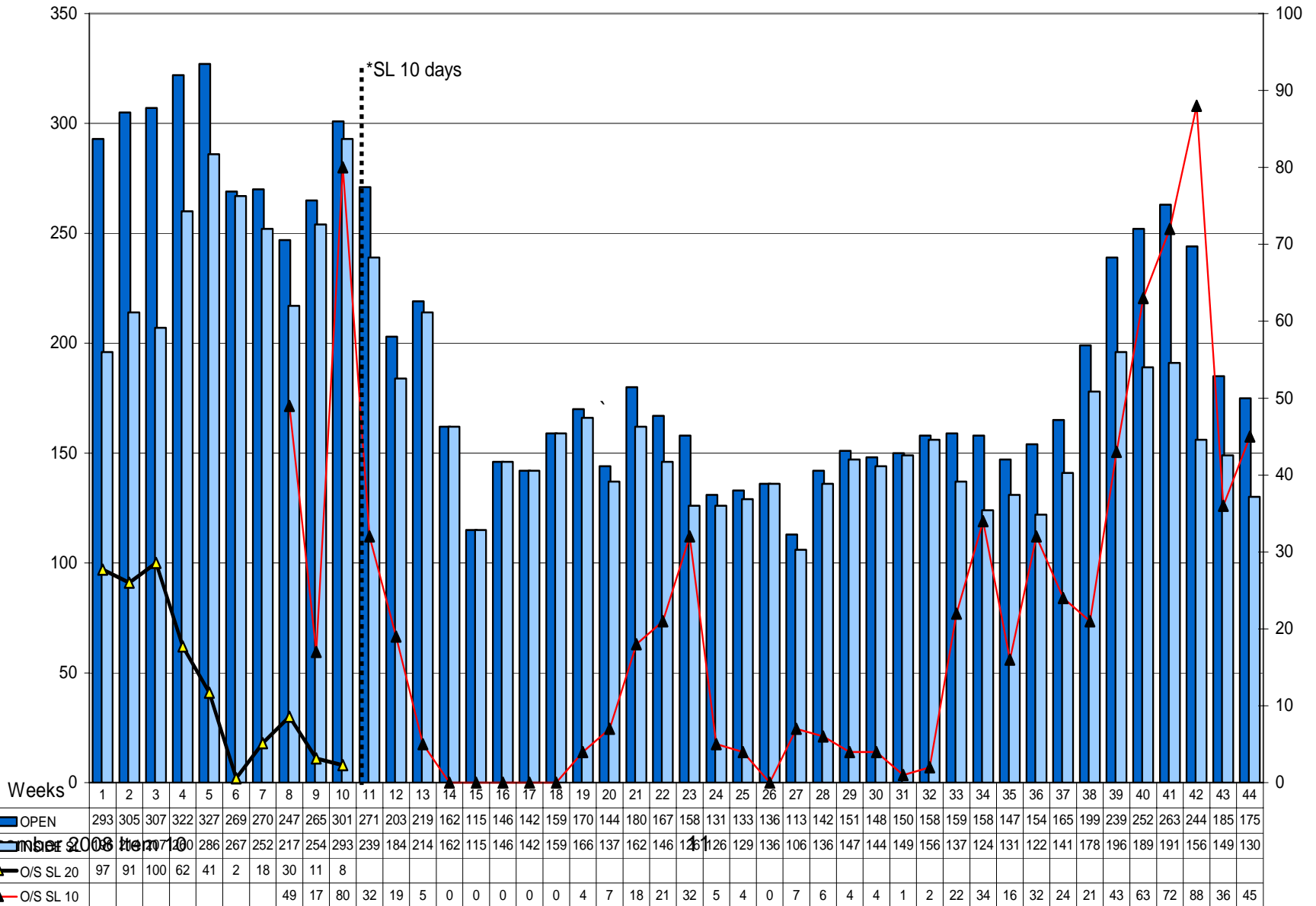
over SL	7	6	4	4	1	2	22	34	16	32	24	21	43	63	72	88	36	45
within SL	106	136	147	144	149	156	137	124	131	122	141	178	196	189	191	156	149	130

SRA BOARD
20 November 2008

Week ending
1 - 04 Jan
2 - 11 Jan
3 - 18 Jan
4 - 25 Jan
5 - 01 Feb
6 - 08 Feb
7 - 15 Feb
8 - 22 Feb
9 - 29 Feb
10 - 07 Mar
11 - 14 Mar
12 - 21 Mar
13 - 28 Mar
14 - 04 Apr
15 - 11 Apr
16 - 18 Apr
17 - 25 Apr
18 - 02 May
19 - 09 May
20 - 16 May
21 - 23 May
22 - 30 May
23 - 06 Jun
24 - 13 Jun
25 - 20 Jun
26 - 27 Jun
27 - 04 Jul
28 - 11 Jul
29 - 18 Jul
30 - 25 Jul
31 - 01 Aug
32 - 08 Aug
33 - 15 Aug
34 - 22 Aug
35 - 29 Aug
36 - 05 Sept
37 - 12 Sept
38 - 19 Sept
39 - 26 Sept
40 - 03 Oct
41 - 10 Oct
42 - 17 Oct
43 - 24 Oct
44 - 31 Oct

**Professional Ethics Guidance Team -
 Correspondence statistics January to October 2008**

**Total No.
 of Matters**



SRA BOARD
20 November 2008

4. Consumer protection, enforcement and discipline

Regulation Response – caseworking

4.1 The flow of new work into CIU was 16% ahead of forecast in the month, 21% in year to date, continuing the pattern seen for most of the year, albeit with a reduced though still high rate of RDC referrals from LCS. Volumes have picked up strongly again in October.

4.1.1 Both caseworking units are meeting their timeliness targets.

4.1.2 Quality performance is mixed. In RI it is looking very satisfactory. However the quality performance in CIU has dropped somewhat below the 90% target after audit revisions of 1st quarter performance and a poor second quarter. Performance against the target of 90% of closures with a fair and reasonable outcome is now tracking at 85% over the first six months.

This disappointing performance is partly as a result of a downward adjustment to the file review scores in the first quarter from 89% to 83% and with second quarter results at 81%, against a forecast outturn of 90%. LSO performance was expected to be at least 80% based on last year's results but fell sharply to 71% in the second quarter. Action is being taken with certain individual caseworkers to retrain and encourage them to deliver more thorough analysis and work management. We believe the recent surge in caseload may have led to some over-emphasis on delivering timely and efficient outcomes. Managers are stressing the overriding need to maintain acceptable quality.

4.1.3 Both caseworking units also had a below trend month for productivity partly because of a short-term bottleneck in Adjudication, now being cleared. However the longer term performance remains satisfactory.

Investigation & Inspection

4.2 New KPIs & processes have been agreed in FI to strengthen and clarify the case hand offs between units and timeliness expectations by risk category; and to ensure clear reporting of performance and management of delay.

4.2.1 The number of unstarted cases in FI has reduced since the start of the year but more work is required to meet the new response time standards.

4.2.2 In terms of measured efficiency, FI bounced back strongly in September and is now on track to recover to an 80% + average for the year (it was 85% in 2007).

4.2.3 Work has started on two important projects in the Directorate to streamline report-writing and implement the approved policy on transparency.

4.2.4 The next phase in developing our supervisory mechanisms through pilot visits to City firms by PSU is planned for early 2009. A new team is being formed in the South East to support this initiative and also ensure we have proportionate coverage of the profession in all regions.

4.2.5 A review of how field and desk resource should be allocated in line with Board strategy is under way.

SRA BOARD
20 November 2008

- 4.4.3 The Policy (Inclusion) Unit continues to advise and support the Discrimination Complaints Investigating Officers. The interim complaints protocol will be reviewed in March 2009.
- 4.4.4 The Policy (Inclusion) Unit has advised on the DPs tender evaluation criteria and has assisted in the shortlisting. The tender exercise used positive action to encourage BME suppliers to apply. There are specific E&D requirements included in the tender and will also be incorporated in the contract and service level agreement.
- 4.4.5 The Policy (Inclusion) Unit is co-ordinating the SRA Diversity Census project. The first phase of the data collection is well underway and the on-line questionnaire has been finalised. We have consulted the Equality and Human Rights Commission and gained their feedback on the data monitoring exercise. We have considered their feedback before finalising the questionnaire.

Communications will be publicising the exercise to the profession. We are going to be seeking supporting statements from some of the equality groups as part of the marketing campaign.

The contract for Phase 1 has been awarded to WebsynergiDesign who will be providing web design and hosting services for the online questionnaire which makes up the first phase of the Diversity Census project.

Author: Antony Townsend
Date: 12 November 2008

**COUNCIL
17 December 2008**

Item 11

Classification - Public

Purpose – for decision

**LEGAL SERVICES ACT 2007: TRANSITIONAL
ARRANGEMENTS:**

**FEES AND CONTRIBUTIONS FOR RECOGNISED BODIES:
MARCH 2009-OCTOBER 2010**

The Issues

The Council and the SRA Board are being asked to approve transitional arrangements for charging recognised bodies' application fees and Compensation Fund contributions in the light of the amendments made by the Legal Services Act 2007. The proposals do not involve a change in existing policy. In addition the SRA Board is to be asked to set fees for recognised bodies applying for the approval of non-lawyer managers.

Decision

The Council is invited to approve recommendation (2) in relation to Compensation Fund contributions for recognised bodies and to note recommendations (1), (3) and (4).

The Council is not being asked to approve any proposals in relation to sole practitioners at this meeting.

Policy Position

The recommendations are based on the existing charging policy which was set by the Council.

Financial and resourcing implications

There will be an increase in income from recognised body fees and Compensation Fund contributions as partnerships will be paying renewal fees as from November 2009. The income will offset the resources needed to deal with the applications and some regulatory costs. The application fee for non-lawyer managers is intended to cover the cost of dealing with such applications but this is necessarily on the basis of a rough estimate, to be reviewed in the light of experience.

Approval of these recommendations will result in minimal need to develop current IT and Finance systems.

Equality and diversity implications

The paper proposes some additional regulatory fees which will be at a flat rate, but comparatively low, for a transitional period. The fee could impact on very small firms. The consultation paper (see **Annex 1**) asked for views on the impact and any views will be reported to the SRA Board, the Regulatory Affairs Board and the Council.

Consultation

A consultation paper was published on the SRA website on 10 November, asking for responses by 8 December. The Regulatory Affairs Board will consider the consultation paper and these recommendations on 16 December and will orally report to Council.

The Management Board approved the proposals on 3 December, subject to further consideration of the matters raised in paragraphs 16 and 20-24 of the consultation paper.

Author: Alison Crawley
Date: 5 December 2008

Introduction

1. The Legal Services Act 2007 (the Act) amends the Law Society's regulatory powers to enable it, through the SRA, to regulate new forms of practice (legal disciplinary practices, "LDPs", owned and managed by different kinds of lawyer with up to 25% non-lawyer managers).
2. Currently solicitors who practice in corporate form have to do so through a recognised body, which is regulated as a firm. The Act introduces a new regime for recognised bodies, whether or not they are LDPs, and that regime includes partnerships as well as corporate firms.
3. It is anticipated that the amendments which enable LDPs, and make the changes to the recognised bodies regime will come into force on 1 March 2009. On that date all existing partnerships will be passported by the SRA into recognised body status, without the need for an application to be made or a fee to be paid by those firms.
4. The Recognised Body Regulations [2009] which have been made by the SRA Board, following consultation, but are still awaiting statutory approval, will also come into force on 1 March 2009. Those regulations provide for an annual renewal of recognition on 1 November each year, replacing the current three year renewal cycle. Fees and Compensation Fund contributions need to be reviewed in the light of these Regulations. In accordance with established procedure, the Council and the SRA Board are asked to exercise their powers in anticipation of the relevant provisions coming into force.

Proposed application fees and contributions

5. It is now necessary for the SRA Board to set the recognised body application fees and for the Council to set the Compensation Fund contribution payable in respect of initial recognition commencing in the period 1 March 2009 – 31 October 2010 and for renewal during the period 1 March 2009 – 31 October 2009 and for all firms on 1 November 2009.
6. The SRA has consulted on its proposal in relation to the fee payable and on what it proposes to recommend to the Law Society Council in relation to the Compensation Fund contribution element. The consultation paper is attached at **Annex 1** and explains the reasoning behind the proposals in more detail. The proposals both in the consultation paper and in this paper do not make any change to the current charging policy set by Council some years ago. For this transitional period the current three year fee and contribution are transposed into the form of an annual fee and contribution. It has only been possible to have a limited time for consultation. While that is regrettable it can be justified on the basis that the proposals do not contain any change to existing charging policy and on the grounds of urgency. The responses are due by 8 December and will be reported to the SRA Board, the Regulatory Affairs Board and Council. The RAB will consider the consultation and these recommendations on 16 December and will report orally to Council.
7. It is anticipated that from 1 November 2010 a new structure of fees and contributions will be introduced following further consultation on both the principles and the detail.

8. It is hoped that the fees can remain as set until 31 October 2010 but it is possible that they may need to be revisited and technical changes made in the light of the Framework Services Directive.

Detail of proposals

9. The current fees for a three year period are £500 recognition fee and £400 Compensation Fund contribution.
10. This paper recommends that the new application fee should be £180 and a Compensation Fund contribution of £120, both for a one year period. This would mean that any new partnership, company or LLP setting up in the period March 2009 – October 2009 will pay a proportion of this annual fee for the period to 31 October 2009, and then, on renewal, pay the annual fee and contribution. Similarly, those applying for initial recognition in the period November 2009 – 31 October 2010 will pay the same application fee or a proportion of it depending on the time of year when the application is made.
11. It is important for the SRA Board and the Council to set the fees now so that the profession know what the fees will be during this transitional period; and so that the application forms, and necessary IT and administrative processes can be developed in time for 1 March 2009.

Application for approval of a non-lawyer manager

12. The consultation suggests an application fee of £250 for the approval of non-lawyer manager. This would be a conservative figure and would not be adequate to deal with difficult and contentious applications and therefore an additional fee of £250 has been set for an appeal under the SRA's procedures, whether the appeal is made by the recognised body, the individual non-lawyer, or both. The consultation paper explains that it is the SRA Board's intention to ensure that the fee covers the cost of such applications but only a broad estimate of cost is possible at this stage and the fee will be reviewed in the light of experience.

Recommendations:

It is recommended that, in anticipation of the commencement of the relevant provisions by virtue of Schedule 16 of the Legal Services Act 2007:

- (1) the SRA Board, under regulation 1.1(b) of the SRA Recognised Bodies Regulations [2009], determine the fee payable by a body applying for recognition as:
 - (a) £120 on applying for initial recognition or renewal of recognition to commence in the period March to June 2009, and
 - (b) £60 on applying for initial recognition or renewal of recognition to commence in the period July to October 2009,

the renewal date for any such recognition being 31 October 2009 in accordance with regulation 8.7 of the SRA Recognised Bodies Regulations [2009]; and

- (c) £180 on applying for initial recognition or renewal of recognition to commence in the period November 2009 to February 2010,
- (d) £120 on applying for initial recognition to commence in the period March to June 2010, and
- (e) £60 on applying for initial recognition to commence in the period July to October 2010,

the renewal date for any such recognition being 31 October 2010 in accordance with regulation 8.1 of the SRA Recognised Bodies Regulations [2009];

- (2) the Council of the Law Society, under rule 2(2) of the Solicitors' Compensation Fund Rules [2009], prescribe the contribution payable by a body applying for recognition as:

- (a) £80 on applying for initial recognition or renewal of recognition to commence in the period March to June 2009, and
- (b) £40 on applying for initial recognition or renewal of recognition to commence in the period July to October 2009,

the renewal date for any such recognition being 31 October 2009 in accordance with regulation 8.7 of the SRA Recognised Bodies Regulations [2009]; and

- (c) £120 on applying for initial recognition or renewal of recognition to commence in the period November 2009 to February 2010,
- (d) £80 on applying for initial recognition to commence in the period March to June 2010, and
- (e) £40 on applying for initial recognition to commence in the period July to October 2010,

the renewal date for any such recognition being 31 October 2010 in accordance with regulation 8.1 of the SRA Recognised Bodies Regulations [2009]; and

- (3) the SRA Board, under regulation 1.1(b) of the SRA Recognised Bodies Regulations [2009], determine the fee payable:
 - (a) by a body applying for approval of an individual as suitable to be a manager under regulation 3 of those regulations as £250;
 - (b) by a body and/or an individual appealing under the SRA's own appeals procedure against a decision not to approve an individual as suitable to be a manager as £250.
- (4) It is further recommended that the Chairman of the SRA Board certify that action on these issues is urgent in order to meet the date of 1 March 2009, to which both the SRA and the MoJ are committed and which the Law Society has supported, for the implementation of legal disciplinary practices.

Consultation 12

Firm Based Regulation – fee raising policy for 2009

Introduction

1. This paper contains the SRA's proposals in relation to the fees it will charge to firms (recognised bodies and recognised sole practitioners) in 2009. It does not deal with the practising certificate fee. It also contains proposals in relation to the compensation fund contribution to be paid by recognised bodies. The SRA is consulting on what it proposes to recommend to the Law Society Council in relation to such contributions.
2. Our strategic paper published in November 2007 [*insert weblink*] suggested that it would be necessary to develop a new system for allocating the cost of regulation among firms and individuals. That paper suggested that little change may be made in 2009, but significant change is likely for 2010. This paper does not deal with the future allocation of costs between firms and individuals that may apply from 2010. Work is continuing between the SRA and the Law Society on preparing a consultation on fee structures for 2010 and beyond but that is not ready yet. This paper therefore only looks at what fees should be payable by recognised bodies in 2009, the first year in which there will be an annual renewal exercise for recognised bodies. It is important that there is clarity on this as soon as possible for both the SRA and the profession. We are proposing very little change from the current fee structure, as we consider that will broadly cover the costs attributable to the recognised body renewal process, which should be borne by firms in private practice, rather than by all practising certificate holders, many of whom are not in private practice.

Background

3. The Legal Services Act 2007 ("the Act") in permitting the Law Society (through the SRA) to regulate new forms of practice (legal disciplinary practices, or LDPs, owned and managed by different kinds of lawyers, with up to 25% non-lawyer managers), changes the statutory powers so that both firms and individuals will be regulated. The Act requires all firms to be recognised bodies, and provides for a renewal process.
4. The SRA believes that firm based regulation is a more effective and efficient method of regulation and is necessary in the context of mixed practices involving, as owners and managers, individuals who are regulated by other professional bodies and those who are not otherwise regulated at all. The Act requires that same regulatory regime must apply to all firms, whether or not firms have taken other kinds of lawyers or non-lawyers as managers.
5. As explained in our strategic paper published in November 2007, the Act enables new forms of practice by amending the statutory powers in the Administration of Justice Act 1985 (AJA) relating to recognised bodies:
 - by expanding those powers to include unincorporated partnerships; and
 - by extending the powers to allow for recognised bodies to be owned and managed by other lawyers as well as solicitors, and/or to have up to 25% of non-lawyers as managers.

6. The SRA has now made, subject to statutory approval processes, the necessary amendments to the SRA's Code of Conduct, and the new SRA Recognised Body Regulations. The Code and Regulations, as made by the SRA Board, can be found at www.sra.org.uk/LSA. We hope that LDPs will be permitted from 1 March 2009, at which point "firm based" regulation will apply to all firms including partnerships. Existing partnerships will be passported into recognition and will not need to make an initial application.
7. In addition, the Act changes the regulatory position of sole practitioners, who in future will need to seek and renew a "sole solicitor endorsement" in relation to each practising certificate. We refer to such sole practitioners as recognised sole practitioners. The necessary changes to the SRA Code of Conduct and new practising regulations have now been made, subject to statutory approval processes, and can be found at www.sra.org.uk/LSA. We expect that sole practitioners will need recognition from 1 July 2009. Existing sole practitioners will be passported into recognition and will not need to make an initial application.
8. Currently the SRA conducts regulatory checks and fee collection mainly through the annual practising certificate exercise. The current additional recognised body process applies only to incorporated practices (companies and LLPs), and is "light touch", in that the information requirements are minimal and are checked only every three years. However, the Recognised Body Regulations, reflecting the changes in primary legislation, require recognised bodies, from March 2009, to seek annual renewal of recognition. The necessity for an annual process was discussed in consultation paper 8 - Changes in Regulatory Processes for Individuals and Firms - and the Recognised Body Regulations were drafted and consulted upon the basis that there would be annual renewal of recognition. This means that partnerships who are passported into recognition will need to renew recognition in October 2009, and any new firms setting up after 1 March 2009 will be recognised until that first renewal process.

Recognised Body Fees – The Current Position

9. Currently only companies and LLPs are required to be recognised bodies. There are about 2,300 recognised bodies. The fee on initial recognition is £900 for three years. That includes a periodic regulation fee of £500 and a compensation fund contribution of £400. Recognised bodies renew recognition every three years on the anniversary of their initial recognition and the combined renewal fee is also £900.
10. The justification for this standard fee was to recognise both the processing costs and the additional regulatory cost of regulating an entity. It was considered inappropriate for those costs to be borne by all practising certificate holders. There was no basis for introducing a graduated fee reflecting risk, the ability to pay or the cost of regulation, so a fixed rate standard fee was the appropriate way forward.

Transitional proposal for 2009 only

11. The Act will require all partnerships to be recognised bodies so there will no longer be an element of choice as to whether to become a recognised body. But the legislation also requires different regulation and administrative

regulatory procedures to be applied to recognised bodies, and it is right to reflect those costs in a separate recognition fee for what will be a transitional period.

12. We therefore need to propose a fee to reflect the cost of recognising new firms created after 1 March 2009, and also an annual renewal fee for the first annual renewal exercise which takes place in October 2009. The annual renewal will apply to all recognised bodies, i.e. all partnerships, companies and LLPs i.e. to about 11,000 firms. Renewal will be for one year only.
13. The SRA proposes that, transitionally, for 2009, a standard fee should continue to be applied to all recognised bodies on renewal – regardless of size and whether or not the recognised body is also an LDP with or without non-lawyer partners. The SRA proposes not to change the current basis for the fee, so that the combined annual fee should be £300 (i.e. £900 ÷3) made up of a periodic regulation fee of £180 and a compensation fund contribution of £120.
14. All new partnerships, companies or LLPs setting up after 1 March 2009 will need to make an initial application for recognition. It is proposed that the initial application fee should be the same as the renewal fee, as now – i.e. an annual fee of £300, but that a similar approach to practising certificate applications should be made in that the fee should be reduced according to the time of year the application is made. That would mean that applications made from 1 March 2009 to 30 June 2009 would be charged at a combined fee of £200 and applications from 1 July 2009 to 31 October 2009 would be charged a combined fee of £100.
15. All individual solicitors working in recognised bodies will continue to pay the annual practising certificate fee and compensation fund contributions. Often these fees are paid on behalf of the individuals by the firm in which they work.

Why has so little change been made for 2009?

16. The SRA are aware however that this proposal may be seen by some in the profession to be unfair given the fact that a number of recognised bodies setting up and renewing in 2009 will have non-solicitor managers. We cannot under the statute charge those non-solicitor managers any form of individual fee such as the practising certificate fee. The only way to cover the cost of an LDP in a way which would reflect the different structure would be to charge a different (i.e. higher) recognised body (initial or renewal) fee to recognised bodies if they have some non-solicitor managers. However, at present, our IT and finance systems would not support the ability to recognise different types of recognised body, and so calculate different fees on that basis.
17. The proposals in this paper represent the only realistic option open to the SRA as anything more complicated will involve considerable expense in adapting existing or developing new IT and finance systems to support anything different. Any such change would be for one year only and so represent a one off, wholly disproportionate cost. The SRA considers that would be a waste of the profession's money. Work on developing a significantly different system for 2010 and for the future is more important and will require a considerable resource commitment by the SRA, supported by the Law Society Group finance and IT teams. The SRA do not believe that resource should be diverted to develop a different system for one year only in

2009. The transitional period during 2009 will provide time to develop new and improved systems for 2010 and beyond.

18. There is an argument that non-solicitor managers should be making a direct contribution. In fact, in the vast majority of cases the firms' owners (which will include any non-solicitor managers) fund the total cost of regulation for all in the firm from its gross profits and so do, in reality, bear the cost. While the proposals may create a small anomaly, the SRA considers that any alternative would lead to wasted costs which would be disproportionate to any benefit that might be gained. Also it must be borne in mind that the current system, in effect, apportions costs among firms on the basis of the number of practising certificate holders in each firm is more anomalous. It is that anomaly that will be addressed in the next consultation on fee structures for 2010 and beyond.

How does this affect existing recognised bodies?

19. Recognised bodies that already exist or have received initial recognition before March 2009 will have been recognised on a three-year rolling basis from the date of initial recognition. The Recognised Body Regulations contain transitional provisions (Regulation 8.6) which, when they come into force on 1 March 2009, will replace the current renewal date for bodies who received initial recognition or renewed their recognition on or after 1 November 2006, with a renewal date of 31 October 2009. The Regulation also provides that credit will be given for fees and contributions overpaid if and when such bodies apply for renewal of recognition in 2009. Recognised bodies which have set up or renewed since January 2008 have been warned about this possibility in correspondence. We are currently working on the process which will calculate and provide such credit.

Fees for the recognition of sole practitioners

20. The Solicitors Act 1974, as amended by the Legal Services Act, provides for the firm based regulation of sole practitioners through a process linked to the issue and renewal of practising certificates. It is the SRA's policy to apply the same principles of firm based regulation to sole practitioners as it applies to recognised bodies. The policy is in effect that sole practitioners should not be treated more or less favourably than other firms. However, instead of there being a distinct recognition fee for sole practitioners the statute gives the power to charge a differential practising certificate fee at the same time as renewal of the practising certificate and an additional fee where a solicitor applies for recognition ("endorsement" under the Act) during the currency of an existing practising certificate.
21. Given the policy position taken, the SRA proposes to recommend to the Council of the Law Society that recognised sole practitioners should be charged on the same basis as recognised bodies. This would mean that they would pay an additional combined fee of £300, over and above the normal practising certificate fee and compensation fund contribution, on renewal in 2009. This will affect about 4,500 sole practitioners.
22. It will mean that new sole practitioners setting up in practice between July 2009 and October 2009 would pay a proportion of £300, i.e. £100 for the initial period of that recognition.

23. The justification for charging a differential fee to sole practitioners is that the new process, required by legislation, carries some cost that is not attributable to all practising certificate holders, but only to those operating in sole practice.
24. This proposal is transitional for one year only and the future fee structure for sole practitioners from 2010 and beyond will be subject to further consultation.

Application fees for approval of non-lawyer managers

25. The SRA considers that the application fee for the approval of non-lawyer managers should, in principle, cover the administrative costs of that process, so that those firms who do not take on non-lawyers managers do not bear the cost. We are still working on the amount of the fee, and it is difficult, in the first year of a new application process, to accurately estimate the resource that will be required. The current application fee for admission, when similar checks on character and suitability are required, is £100 with an additional charge to cover an appeal.
26. The number of applications from non-lawyers will be much lower than those for admission, and so there will be fewer economies of scale, and some aspects of the process will require more work to be done. We therefore think that an initial fee of £250 can be justified, although this has to be an estimate. We are also proposing to charge an additional amount on an application for an appeal against a refusal as that is fairer than apportioning the cost of appeals among those applications that are straightforward.

Impact of proposals

27. This paper proposes some additional regulatory fees which will be at a flat rate, but comparatively low, for a transitional period. This fee could impact very small firms. Arguably, a fee which can take into account ability to pay can be fairer, although that is less justifiable, where a fee is intended to cover the cost of processing. The SRA also believes it would be disproportionate to add complexity to the fee calculation during this transitional period. These new processes, required by statute, will involve some additional processing cost. Charging nothing or less will mean that any additional costs are borne by solicitors who are not running their own business in private practice, such as in-house solicitors.

Questions

1. Please let us know if you agree or disagree with the SRA proposals in relation to fees to be charged transitionally in 2009. Please give reasons for your views.
2. In the light of the potential impact on small firms we would be interested in finding out what the impact will be on sole practitioners and small firms. We would, therefore, also like to hear from you about any concerns and views you may have on the equality impact of the fee proposals as set out in this consultation. We attach an initial impact assessment.



The Law Society

COUNCIL
17 December 2008

Item 12

Classification –Public

Purpose – For noting

REPORT OF THE CHIEF EXECUTIVE OF THE LAW SOCIETY

The Issues

The regular report by the Chief Executive.

Policy Position

N/A

Financial and Resourcing implications

None in the context of this report.

Equality and Diversity implications

Council Members can use this report to consider whether the needs of all members of the Society are being taken into account in the Society's work.

Consultation

This report has been prepared for Council.

Director:	Desmond Hudson
Author:	Stephen Ward
Date of report:	2 December 2008

Corporate issues

- **Officeholders' and CEO's visits**

Office Holder visits have continued to take place across England and Wales. Programmes have been tailored to include individual firm visits, Managing Partner forums, seminars and academic institutions.

The President visited a number of members' firms in Cornwall and spoke at Cornwall Law Society AGM and dinner.

The Chief Executive visited the region to meet with members in South and West Yorkshire. A number of major issues affecting firms were also discussed at a Managing Partners' dinner. The President visited South Yorkshire members and a number of local law societies, as well as speaking at the North East Commerce and Industry dinner.

The President visited a number of members and their firms in the region. The programme also included a Managing Partners' dinner and a speech to the University of Wolverhampton. The Deputy Vice President visited a number of firms in the region and also met with Worcestershire Law Society.

The President and Chief Executive visited Liverpool Law Society and CEO also met with a number of individual firms to discuss corporate regulation.

- **Political engagement**

A programme of meetings between the Office Holders and Minister, front-bench spokespeople and senior MPs are arranged throughout the year in Westminster and at the political party conferences. In addition to recent meetings with Lord Bach and the Attorney General, Baroness Scotland, Paul Marsh will be meeting with Andrew Dismore MP, Chair of the Parliamentary Human Rights Committee. Robert Heslett will be meeting in December the Shadow Home Secretary and Attorney General, Dominic Grieve MP.

- **Review of regulation**

Meetings are being arranged for the reviewer of the Review of Regulation of Corporate Legal Work (RRCLW), including regional meetings in Manchester, Birmingham, Leeds and Wales in conjunction with the Regional Managers. Reference group meeting for the RRCLW has been completed and established, communication of the Review's Call for Evidence to Law Society stakeholders put in motion.

- **Equality and Diversity**

The Society's overarching equality and diversity strategy is currently undergoing consultation with the SRA and LCS Boards, the Employment Law Committee, the Equality and Diversity Committee and Management Board. It will be brought to the 28 Jan Council meeting.

We are working closely with the SRA on the implementation of measures to address the findings of the Ouseley report. This includes the provision of support to solicitors to help them avoid getting into difficulty managing their practices, for example training on compliance with the Solicitors Accounts Rules.

The Society's black and minority ethnic (BME) forum has already met twice and is proving to be a useful forum for generating ideas and discussing how best the Society can support BME solicitors.

More work is planned for next year to address the challenges raised by the last survey of salaries across the profession. A new, more detailed, survey will be published in early 2009 and will help point towards some solutions to the wide pay differences that have been identified between BME and white solicitors and male and female solicitors.

- **Press coverage**

This month the press office has made statements to the media concerning the activities of the PII sub-group, the recent mortgage protocol announced by the government as well as the Legal Sector Alliance. In the past month coverage and activity has surrounded:

- **Home Competition Sales**

- The Law Society issued a practice note to members, helping them to handle house sales by competition. The practice note provided guidance to solicitors on how to spot the risks of criminal activity in these sales.

- The press office issued a release to publicise the practice note and also issued a release to warn the public about the legal risks of trying to sell a house by competition, urging the public to use a solicitor.

- Widespread coverage has been received in the national press, regional press and legal press, as well as personal finance and property titles.

- **Immigration Law**

- Following statements made by the immigration minister that lawyers and charities had created an asylum industry; the Law Society reacted via the press. As well as a press release, letters were issued to the relevant papers. Coverage was achieved in the legal press as well as the national press. The Daily Telegraph said "The Law Society has accused the minister of "running against the rule of law" and making "unacceptable" comments.

- **Home Information Packs**

- The Law Society's on-going warnings over sub-standard HIPs and the need to use a solicitor has continued to gain coverage in the regional press.

- **Legal Sector Alliance**

- Legal Sector Alliance coverage continues to come in as the movement develops its strategy further. In the last quarter legal sector alliance has accounted for over one million pounds worth of ad value coverage. Beneficial coverage was attributed when it was read that The Law Society had made significant financial savings and environmental improvements through being involved with the Legal Sector Alliance's Carbon Footprint Protocol. This was largely following The Law Society's Press Release last month.

Metric	Value
Items	53
Titles	30
Circulation	2,175,000
OTS	3,449,000
Beneficial CCM	601
Factual CCM	358
Adverse CCM	0
Total CCM	959
PR Value (£s)	£1,483,562

Promoting the profession to the public and business

- **Lawyers for your Business**
 - Full page advert, page of editorial, hyperlink and web button in October issue of new British Chamber of Commerce publication: *Ultimate Business*. Print, digital and electronic distribution via email
 - Delegate pack inserts at ISBE (Institute of Small Businesses and Entrepreneurship) conference in Belfast 5th-7th November
 - Advert in *SME*, Autumn edition
 - Delegate pack inserts sent to Business Start-up exhibition at Olympia 28/29th November
 - New post renewal regional listings distributed
 - VAT letter produced and mailed to all newly renewed members

Policy and lobbying

- **Family**
The Family Law Committee has responded to two consultations. The first is on the statutory guidance on forced marriages, the second on a proposal from Resolution about a Bill on cohabitation.

- **Civil Justice**

Streamlined Claims Process

The Law Society has been representing the profession in stakeholder work groups held by the Ministry of Justice to design the new streamlined claims process for road traffic personal injury claims with a value of £10,000 or less. These claims constitute approximately 80% of all personal injury litigation. The new procedures will include a three stage process for claims where liability is admitted. Fixed costs will be payable for each stage of the process.

The work groups have involved complicated negotiations with insurers.

Review of Civil Litigation Costs

The Master of the Rolls has appointed Lord Justice Jackson to undertake a "nuts and bolts" review of civil costs. A member of Legal Policy staff has already met with Jackson LJ to discuss the review's terms of reference. The intention of the review is to investigate the way in which present costs rules in practice at the moment are impacting on each category of litigation in order to assess the extent to which those rules are encouraging rather than discouraging litigating parties to incur costs. The Society's Civil Justice Committee and Costs Reference Group have already commenced work on a draft paper which will be aimed at informing the review and protecting the profession's interests.

- **Crime**

The Criminal Law Committee has issued a practice note on Virtual Courts. It has also responded to the Government's proposals in following the PACE review.

- **Anti-money laundering**

Proposed changes to the Counter Terrorism Bill

In October 2008, HM Treasury issued a confidential 24 hour consultation on proposed introduction of systemic reporting requirements and enhanced due diligence on the basis of Treasury direction. The amendments were to be included in the counter terrorism bill during its progress through the House of Lords. The proposed amendments created significant new AML compliance burdens, failed to take into account legal professional privilege and applied extra-territorially in a manner which could have had a significant negative effect on the employability of UK passport holders in other jurisdictions. The Law Society, supported by the Law Societies of Scotland and Ireland, made strong representations to Treasury as to the fundamental difficulties inherent in the proposed recommendations. Within three days HM Treasury changed their position and advised that the proposed amendments would only be applied to the banking sector rather than to the whole regulated sector.

Meeting in Brussels on implementation of the third money laundering directive
The Law Society will be represented by the Chair of the MLTF and the AML policy officer at a meeting in Brussels hosted by Anti-Money Laundering Europe and the United Nations to discuss the implementation of the third money laundering directive. We will use this opportunity to highlight the work undertaken by TLS to support solicitors with compliance, but to also highlight areas in which changes need to be made to increase the proportionality and effectiveness of the anti-money laundering regime.

- **CLAC in Sussex**

Following earlier discussions, the Regional Manager is scheduling a major stakeholder meeting to discuss the proposed CLAC in West Sussex.

- **C-MEC**

The Chair of C-MEC, Janet Paraskeva, addressed 45 family practitioners on the new commission and its ethos. The event was chaired by Mr Justice Hickinbottom. There was a robust exchange of views about the proposed implementation and exercise of power vested in the commission.

- **Devolution Seminar**
38 practitioners attended a seminar on cross-border issues – local government solicitors and private practice gave excellent feedback on this course.
- **Evidence Session National Assembly**
Oral evidence was given to the Subordinate Legislation Committee in response to their inquiry on scrutiny of legislation.
- **International organisations**

CCBE

The CCBE held a Plenary Session in Brussels on 28/29 November. The main issues for discussion and/or approval included:

- A CCBE resolution on the acte authentique proposals being pushed by notaries in the European Parliament;
- A common position on the Commission's e-justice strategy;
- The budget for 2009;
- Consideration of the FATF guidelines for lawyers on its principles;

The plenary session was also addressed by the Commissioner for Justice, Liberty and Security, via video, and by the vice-Minister for justice in the Czech government who will be taking over the Presidency of the European Union in January.

CLA

The CLA held a 25th anniversary conference in Jamaica between 16-19 October. The President, David Greene and Alison Hook attended and the President chaired a session on the use of technology in legal practice. The Council meeting agreed various amendments to the constitution and to the incorporation of the association. The next conference will be held in Hong Kong in April 2009.

IBA

We had a successful visit to the IBA annual conference in Buenos Aires in October. Once again we took a delegation of solicitors in partnership with UKTI and have received very positive feedback from the group. Activities included a briefing from the British Embassy, a reception at the Ambassador's residence, meetings with local Argentine law firms and a stand in the main exhibitor hall to promote the International Division and English legal services. Paul Marsh, Des Hudson and Alison Hook spoke at sessions on anti-money laundering, gender equality in the legal profession and trans-border practice. David McIntosh also attended and met with the Brazilian Bar on behalf of the Law Society. He will represent the Law Society at the Brazilian Bar's Annual Meeting in spring 2009.

Anna Prag and Charlotte Ford went on to Chile after the IBA to conduct a scoping visit, meet with the firms and bar association. There was interest in developing links with English firms so we will investigate the feasibility of a trade mission to Santiago in 2009.

LAWASIA

The Law Society sent a delegation to the LawAsia conference in Kuala Lumpur at the end of October. Bob Heslett chaired a session at the conference on project finance, which enabled our members to show case an area of particular UK expertise. Alison Hook also spoke at a session on CPD. The conference admitted the Law Society as a member of LawAsia, which will be a useful platform for us to maintain and advance our relationships in Asia.

UIA

The Law Society hosted a UIA immigration conference on 12 September; the event went well despite lower participation than hoped for. President Paul Marsh also attended the UIA Annual Congress in Bucharest at the end of October.

- **EU Matters**

The European Commission published a White Paper on damages actions for breach of EC antitrust rules before the summer. This makes various recommendations for improving domestic litigation systems to ensure that victims of breaches of EC antitrust rules (such as price-fixing cartels) are able effectively to seek compensation. The Paper also makes recommendations on collective actions and representative actions. A Law Society response was submitted to the Commission and posted on the Society's International Division web-site. The issue is currently the subject of discussion in the European Parliament. The Brussels office has sent parliamentary briefing papers, summarising our response, to MEPs in advance of their discussions. The Society has had discussions with some MEPs' offices on this issue.

In June, the European Commission's register of interest representatives opened and law firms that conduct EU lobbying will be expected to register. The register is voluntary and in a one-year pilot phase. The Society and members of the profession are concerned about whether practices and solicitors can register and meet the requirements of the register while still complying with the Solicitors' Code of Conduct. A draft practice note was approved by the EU Committee on 6 October and the Regulatory Affairs Board 7 October. This has been the subject of ongoing consultation with a number of firms active in public affairs work and is still being finalised. This draft is also to be discussed within the CCBE working group in the hope that it can form the basis of agreed EU-wide law society and bar guidance.

Discussion are on-going at EU level relating to the next five-year programme in the area of Justice and Home Affairs – civil litigation, access to justice, criminal law and policing and asylum and immigration. On 7 July the "Future Group on Justice" presented its confidential report titled Proposed Solutions for the Future EU Justice Programme to Member States for discussion at an informal meeting of the Justice and Home Affairs Council. The report is intended to be a starting point for defining the objectives of a third EU Justice Programme beginning in 2010. The Brussels Office convened a practitioner working group made up of representatives of the Civil Litigation Committee, Criminal Law Committee, International Committee and EU Committee to discuss the initial approach for the Law Society to take in this area. The EU Committee position on the future of justice and home affairs was adopted on 6 October. These comments were submitted to the Ministry of Justice and will be sent to the European Commission and European Parliament in due course.

Position papers and policy responses have also been developed in relation to the following proposals or consultations: a Directive outlawing discrimination based on sexual orientation, religious belief, age or disability in the context of the provision of goods and services and access to public services, such as housing and education; a public consultation by the OGC (Office of Government Commerce) on the implementation of EU Directive 2007/66 (Remedies in public procurement procedures); a European Commission consultation on proposed guidance to national courts on applying EU State aid rules; and a proposal to create a Statute for a European Private Company.

The Society has started to work on developing a document setting out its EU future priorities. This should relate to the 2009-2014 legislative period and should set the Society's priorities for a range of issues from regulation and professional practice to business and consumer-related matters. The issue is to be discussed by the EU Committee on 2 December.

Representing the profession

- **Crime**

- **Virtual Courts**

- The Law Society has responded to the LSC consultation paper on the legal aid contract changes needed for the Virtual Court pilot to go ahead. The Society's current position is that there will be no further engagement with the Government over virtual courts until they reverse the decision to offer a lower fee for these cases than they would get in the ordinary course of the Magistrates Court.

- **VHCC Panel**

- Following discussions between the Bar Council, Law Society, LSC and Government Ministers, the Ministry of Justice announced an increase in the rates paid for VHCC Panel work. The Society acknowledged that solicitors would benefit from the change, but expressed disappointment that the Ministry had given such a high priority to meeting the demands of the highest-paid barristers while ignoring the plight of solicitors working at the coalface.

- Discussions continue on a proposed new scheme to replace the current one in July 2009. A consultation paper on the new scheme is expected in December 2008.

- **Crown Court Means Testing / changes to Awards from Central Funds**

- The Ministry of Justice (MoJ) and the Legal Services Commission have issued two important consultation papers:

- i) Crown Court Means Testing
 - ii) The Award of Costs from Central Funds in criminal cases. ~

- The legal aid team will be working with the Criminal Law and Access to Justice Committees to draft responses to these papers.

- **Contract Compliance Audit (CCA) and Quality Working Groups**

- Final reports have been drafted which outline the conclusions and recommendations of the Working Groups. These are due to be published by 31st December 2008.

- **Family**
The anticipated consultation paper on the next phase of the programme to reform legal aid fees for family work has been delayed due to change of minister. This will introduce fixed fees for the majority of the remaining family work still currently paid on hourly rates. It may harmonise the fees for advocacy work whether undertaken by solicitor or barrister, and may address the issue of lack of payment for solicitor advocacy preparation.

- **Civil and Social Welfare**
The LSC consultation on *Civil Bid Rounds for 2010 Contracts* published in late October will close on 23 January. There are concerns as to the requirements relating to Integrated Services, especially as regards rural and BME organisations. The LSC's provisions with regard to consortia may not be practical. Practitioners are voicing concern as to mandatory Key Performance Indicators as they have no confidence in the LSC outcome codes.

- **Lord Chief Justice's visit to Wales**
Senior partners from the Top 100 firms met the Lord Chief Justice, Lord Judge, at a supper during his inaugural two day visit to Wales in his new role. He urged practitioners to use the new administrative court office when it opened in April 2009.

- **LSC in Wales**
Meeting with LSC Wales Commissioner Tom Jones to discuss changes to LSC Wales office and staffing ratio. Concern about implementation and monitoring of LSC Welsh Language Scheme.

- **BME forum**
The second BME forum gave the members an opportunity to discuss and comment of the LCS, SRA and group LS equality and diversity action plans. In 2009 TLS working with the BME forum will be rolling out a programme of seminars for BME members on regulatory issues, the solicitors' accounts rules and judicial appointments.

- **Career development**

 - Preparing students for entry to the solicitors' profession, 24 October 2008**
The event was held in association with the Association of Muslim Lawyers, Black Solicitors Network, Group for Solicitors with Disabilities, Society of Asian Lawyers and the Junior Lawyers Division. The event was aimed at undergraduate and LPC students and covered all aspects of preparation for a career in the legal profession. The event was sponsored by Wilde Sapte and Burges Salmon.

 - So you want to be a lawyer? – 21 November 2008**
The event was held in collaboration with the Institute of Legal Executives, Institute of Paralegals and the Bar Council. The Junior Lawyers Division also participated. 150 school students aged 14-16 attended the event aimed at inner city schools with a view to giving them an insight in to a career in the legal profession.

- **International projects work**

We have been selected as a consultancy organization, under a framework agreement, for a regulatory reform programme in Bangladesh. We are waiting to see what calls may be made on us as part of this programme.

We have submitted a bid for ADR training in Tanzania and expect to hear the outcome in January 2009 and we have been invited to submit a full proposal for the development of training modules in commercial law for the legal profession in Tanzania. The deadline for submission is 28 December and a final decision is expected in April 2009.

We are still waiting to hear back from the following Expressions of Interest that have been submitted:

- Consultancy to review the Legal and Regulatory framework for the Insurance Regulatory Authority, (IRA) in Kenya
- Review of regional Credit laws and regulations in Lesotho
- Human rights Training for the Iraqi National Human Rights Institute
- Legal expertise for the Banking sector in emerging economies
- Legal expertise on anti-corruption in emerging economies.

We have also submitted an Expression of Interest on Stolen Asset Recovery Training in a number of countries and are aiming to submit a bid for a Rule of Law programme in Iran.

We have also been asked to run another workshop on jury trials and the rule of law for Russian lawyers.

- **International human rights**

We have held a couple of well attended international human rights events in recent months:

- **The persecution of human rights defenders** event, 24 November, in association with Peace Brigades International. Sir Henry Brooke was Chair, keynote speakers were Sir Anthony Hooper Lord Justice of Appeal and a Colombian lawyer. Approx 100 attendees.
- **Human Rights Act - 10th anniversary celebration**, 25 November, in association with Human Rights Lawyers Assoc and Freshfields. Approx 170 attendees.

The Law Society will also be hosting the Justice and Liberty Human Rights awards on 8 December.

We have drafted two major Interventions:

- **India:** The Law Society has urged authorities in West Bengal to investigate persistent police interaction with Mr Kirity Roy, who has been the subject of police inquiries since organising a Tribunal constituting part of the National Project on Preventing Torture in India, an EU sanctioned program.
- **Sri Lanka:** The Law Society has expressed its concern to the Sri Lankan government regarding the security of a human rights lawyer

and member of Transparency International, J.C. Weliamuna, who has been campaigning against government corruption. His home was recently subjected to a grenade attack.

- **Inward international visits**

During the period October-December, in addition to the visitors mentioned in the main body of this report, the Law Society also hosted a group of French notaries and organized the International Lawyers for Africa fundraising dinner.

Practical support for solicitors

- **Anti Money Laundering**

Regional money laundering reporting officer groups were held in the Midlands, Yorkshire and the South East region during October. Over 80 solicitors attended and appreciated the opportunity to discuss issues of concern with TLS representatives and hear about the extensive AML work-plan that TLS has for 2009. MLRO groups will be held in each region in early 2009, providing a great opportunity for solicitors to network with colleagues and share good AML practice.

The autumn / winter training seminars have commenced for all regions, with 21 seminars currently scheduled. The new training is designed to meet the needs of Money Laundering Reporting Officers at different levels of experience and operating in different areas of practice. The training is also making more use of scenarios to complement the way in which solicitors generally learn most effectively. The first of the new training sessions was targeted at the top 100 law firms, with a focus on establishing systems in multiple jurisdictions and compliance requirements in international corporate transactions. The seminar was well attended and feedback was very positive.

Planning is going ahead to expand the number of Money Laundering Reporting Officer Groups in England and Wales, following the success of the three pilot schemes. The Senior Relationship Manager participated in delivery of the Forum of Money Laundering Reporting Officers seeking views on Law Society providing complete compliance solutions for member firms.

The South East Regional Manager is working with Legal Policy to establish Anti-Money Laundering Networking Groups in Gatwick, Reading, Southampton, Guilford, Oxford and Maidstone. An Anti-Money Laundering training session for the Greater London region attracted 126 delegates over 2 sessions.

- **Sale of houses by competition**

A further practice note has been issued on the sale of houses by competition, which addresses the opportunities for money laundering and mortgage fraud presented by such transactions. We have received extensive media coverage of our support for the profession on this issue. The practice note is at:

<http://www.lawsociety.org.uk/productsandservices/practicenotes/housecompetitions.page>

- **Banking Crisis**
Meetings have been held with the Financial Services Compensation Scheme to clarify the advice to be given to solicitors on this issue. The Practice Note will be re-issued in the light of this shortly.

In addition, we are lobbying the FSA to increase the protection for funds held in solicitors' client accounts.

- **VAT**
The Chancellor's announcement in the PBR on the reduction in VAT has caused considerable queries within the profession on its practical implications. We are preparing a practice note on the issue.
- **Legal Practice Course**
A series of road shows have been undertaken to inform solicitors about the new LPC. These were developed jointly with the SRA.
- **Work Based Learning**
The Education and Training Committee will be contacting firms and trainees to get their views on how the SRA's pilot is working.
- **Insurance**
Work is continuing to look at research and other options in respect of insurance. The aim is to appoint consultants in the new year and to examine options to enable us to lobby the SRA and the insurance industry early next year, with a practice note being issued in time for the next renewals round.
- **Queen's Counsel**
We are contributing to a review of the current Queen's Counsel scheme. An aim is to make the appointment more attractive to solicitors and to look at the competencies to see whether they need to be adjusted.

Commercial activities

- **Countrywide Legal Indemnities**
This month's downturn in membership benefit income is attributable solely to Countrywide. Despite holding their own throughout Q1 and much of Q2 they have really suffered as a result of the property downturn and have projected year end premiums of £12m versus £20.5 million last year. As a result of this they have made over a quarter of their workforce redundant. This is obviously reflected in our commissions and is likely to remain this way until at least Q3 next year.
- **Oyez Straker**
We have had an initial meeting Oyez Straker to discuss a portfolio of business support products. We have a further meeting diarised to flesh this out in more detail with a view of launching early in Q1 next year.
- **Mercedes Benz**
The membership benefit offer which launched in late summer has so far resulted in 11 vehicles being sold. In the current climate this is a decent result and we will look at ways to increase this in the coming months.

- **Website and Professional Update**

We are looking at ways to further enhance the membership benefits offerings and I am working with the web team to freshen up the relevant pages on TLS website. This will hopefully tie in with the new membership benefits brochure which will be produced for early 2009.

Last weeks PU saw the first use of sponsor's logos and also the first use at using the blank space on the right hand side with a non dynamic promotion of Mercedes Benz. Despite only receiving 130 clicks this is a major move forward in terms of using PU as a marketing channel and we will look to build on this moving forward.

- **Gazette advertising**

The advertising market place continues to be very difficult. Advertising volumes and therefore revenues are significantly down year on year. Independent market share monitoring suggests that the recruitment advertising market has dropped by 969 pages (January to October) however the Gazette has maintained its market share at 31%.

- **Editorial**

The Gazette continues to set the news agenda. Recent stories that we have broken that have been followed up by others have included: the collapse of lender Key Business Finance; concern over the security of money in client account amid the banking crisis; and ongoing concerns relating to levels of non-compliance with rules governing referral fees. We are also serving as a valuable forum for debate in respect of the Society's review of regulation, conveying the opinions of a range of different constituencies within the profession.

We continue to work actively to improve of the quality of the Gazette's website, which remains a priority

- **Production**

There have been a number of print quality issues over the past few issues. These have been highlighted with our printers and they are focused on rectifying the issues.

- **Venue Hire & hospitality**

The Council Chamber and Holborn & Lincoln rooms are now back in full use after undergoing major refurbishment and an upgrade to the video conferencing and general IT/AV facilities. They have been very well received by current and potential customers. It has been a disappointing time financially for VH&H but the Christmas period looks promising and our room hire budget has already been exceeded.

- **Publishing and Retail**

- **October Income**

Sales income for the month exceeded £200K making it our most successful month of the year to date. This was largely achieved as a result of the publication of the new fifteenth edition of *Conveyancing Handbook* on 3 October, which generated £149K.

Online Shop

A number of web clips showing our authors discussing issues facing solicitors and the subject matter of their books are now available to view on the online bookshop as follows:

- David Monk talks about *Marketing Legal Services*
- Peter Camp talks about *Solicitors and Money Laundering* (3rd Ed)
- Stewart Room talks about *Email*
- Andrew Hopper QC and Gregory Treverton-Jones QC talk about *The Solicitor's Handbook 2008*.

We are continuing to expand the offering in the online bookshop with the addition of a selection of titles from Tottel Publishing from 26 November.

We will be holding a sale for a selection of our slower selling titles through the online shop during the first two weeks of December.

Publishing promotional work

- Direct mailing despatched to promote new title: *Email*.
- Direct mailing despatched to promote *Conveyancing Handbook 15th Edition* to past purchasers.
- Direct mailing despatched to promote company law titles to past purchasers.
- Half page advert placed in *Gazette* to promote the Bookshop website.
- Half page advert in *PiP* to promote the Bookshop website.
- Full page advert in *PiP* to promote the Lexcel CPD course.
- £10 off sale arranged, to be implemented online only from 4th to 18th December.
- POS promoting *Conveyancing Handbook 15th Edition* placed in window at Hammicks (Fleet Street), posters despatched to other key Trade outlets.
- Online banners adverts placed on Hammicks Legal Bookshop website to promote *Employment Law Handbook 4th Edition* and *Solicitors and Money Laundering 3rd Edition*.
- Book of the Month feature taken on Hammicks Legal Bookshop website to promote *Employment Law Handbook 4th Edition*.

- **Migrant lawyers**

Work has continued with various government departments and agencies to improve the implementation of the new points-based immigration system (PBS) which has recently been introduced by the Home Office. Working with the Home Office and UK Border Agency (UKBA) further improvements to the guidance have been achieved. Ministerial representations from MoJ to Home Office, highlighting the concerns of law firms about the impact on the competitiveness of their businesses of the new regime, have been informed by the Society. Similar concerns have been raised with HM Treasury and the City Minister. Work continues on exploring the possibility of the Society taking on the role of over-arching sponsor for Tier 5 migrants.

- **Library and Information Services**

At present the Library is answering an average of 2,460 legal information enquiries from members each month. The Lawdocs service is supplying an average of 555 extracts from published material each month. The average daily number of visitors to the library is 118.

The legal information web site, Law Society Library Online continues to attract over 1,000 visits per week and there are now over 6,500 registered users.

A new library display has been organised on the theme of Christmas and the law with interesting documents from our historical collections, all relating to legislation and case law about Christmas.

The library's programme of organised tours has continued to be fully booked. In the last month there have been tours of trainee solicitors, sole practitioners, solicitors from City firms and Magistrates.

More power points for laptops have been provided so that members can now plug in their laptops anywhere in the library

- **Helplines**

The Practice Advice Service

The PAS received a record number of calls and e-mails in October of 3,722. This is a 12% increase compared to September. The PAS were involved in the meeting with the Director of Policy and the FSA and FSCS to discuss the practical issues facing solicitors as a result of the banking crisis. An update to the banking crisis practice note will provide further clarification to members.

The Pastoral Care Helpline

The Pastoral Care Helpline has continued to receive around 300 enquiries in October and, given the current economic climate, it is not surprising that the vast majority of calls relate to redundancy. In particular, conveyancing solicitors and trainee solicitors appear to be the most affected.

Anti-Money Laundering Helpline

The AML helpline received almost 500 queries in October and the most popular calls were in relation to firms receiving funds from third parties, tipping off and customer due diligence.

- **Lexcel**

Lexcel Insurance Working Party

The next meeting will take place on 8 December following the end of the renewal period. The Lexcel office is working to obtain initial information from attendees about key facts within the PII process.

It is hoped that this will help produce a survey which will be distributed to all insurers and brokers. This review will provide valuable information which the Law Society can use to advise members on best practice and the challenges of renewing their PII.

The Lexcel office has also suggested a PII insurance conference be organised for May/June next year. This event could help educate members as

to best practice focused on by the PII insurance market and put them in direct contact with insurers.

Lexcel awareness seminars

Speakers at the Lexcel in-house legal department seminar included Edward Solomons, Director of Legal Services at the Metropolitan Police, and Stuart Turnock, Chief Officer, Legal, Licensing and Registration Services, Leeds City Council. Following the seminar, 3 delegates have booked in Lexcel practice visits and are progressing with their interest.

Advice and materials

The Lexcel office is about to release the revised version of its risk management guide. Centred on best practice as laid out in the Lexcel standard, the guide highlights risks in a variety of areas.

The Lexcel office is starting to develop case studies for a variety of types and size of legal practice. These will increase awareness of the standard and its implementation across a broad range of law firms and in-house legal departments.

Standard development

There has been much interest in Lexcel from both domestic and foreign legal practices and Law Societies. Initial discussions have been held and a feasibility study, including consultation, is being drafted to help identify more specifically the interest and demand or need for an international standard.

- **Careers Guide – Redundancy**

A brochure on surviving redundancy has been prepared and is currently being prepared for publishing on TLS website. The brochure covers areas such as: facing being made redundant, negotiating a redundancy package, statutory minimum, working period of notice, CPD requirements, practising certificate requirements and tips for finding future employment.

- **Mentoring Scheme**

1 October 2008 saw the launch of the Law Society Mentoring Scheme. The scheme provides those at the early stages of their career with a mentor who is able to provide advice and support on work related issues. To date 185 mentees have been matched with appropriate mentors.

- **Sole practitioners and small firms**

A second version of the hugely successful “Small Legal Business Toolkit” from the Law Society is being considered. This toolkit forms part of the package of Law Society resources aimed to help solicitors in the economic downturn.

SPG is engaged in continuing dialogue with the SRA on issues including possible legislative changes allowing for an interim measure prior to interventions, and, the review of the regulation of sole practices.

- **Employed solicitors**

Local Government

The Law Society and SLG's consultation paper on the profile of monitoring officers is about to be launched.

SLG held a SIG Convenors and SLG Specialists Conference on 29 October at Camden Town Hall to review their National Knowledge Network; consultation and lobbying procedures and knowledge sharing. Mark Stobbs, Director of Legal Policy, attended to talk about joint policy initiatives with The Law Society and to encourage local government participation in Law Society committees.

SLG's new website www.slgov.org.uk, which includes a knowledge bank, a legal update feed from Sweet & Maxwell, and an interactive practice based member forum is popular amongst members.

"Employed Solicitors Forum" – work continues on a feasibility study on the appropriate vehicle for providing support, products and services to this diverse sector of the profession and particularly to solicitors in the public sector. The initial roundtable meeting of representatives from different parts of this sector is will take place in the new year.

- **AWS**

Round Table Discussions on Equal Pay are planned for February. The Chair Fiona Fitzgerald was a judge for the Legal Woman in the City Award, the winner was Diana Good a litigation partner at Linklaters since 1988.

The group will be launching their Public Appointments Campaign in January; Janet Gaymer will host the first event on encouraging more women to enter public life. They met with the JAC on 28 November to discuss their involvement with this campaign and their second event on Judicial Appointments in April 2009.

Their AGM and Annual Dinner will be held at the Institute of Directors on 19 March, the Guest Speaker will be the President of the CBI.

- **Sections**

Dispute Resolution Section

The Dispute Resolution Section annual conference on 18 November featured the Master of the Rolls as the keynote speaker and Sir Rupert Jackson explained to delegates his plan and timetable for the civil costs review which he had been appointed to carry out.

Law Management Section

The LMS Business of Law conference on 6 November heard from Professor Stephen Mayson on how firms should be reviewing their strategy and processes to ensure they were operating efficiently and effectively to withstand the current downturn and be well prepared to gear up when economic conditions improve.

Probate Section

The section's successful winter seminar programme has been launched with a record number of members booking to attend this regional series of probate

updates.

Property Section

The HIPs Handling Guide has been revised and reissued.

Competition Special Interest Group

This has been soft launched and is attracting new members. The formal launch by the President will take place on 11 February 2009 at the Law Society. The Brussels competition lawyer community is also being informed and invited to an inaugural seminar at the end of January at the Law Society's Brussels office.

- **Regional outreach**

The Regional Manager hosted Women in Law event in Birmingham which attracted 83 delegates.

The Regional Manager is arranging a breakfast meeting in Birmingham 'Law and Financial Order' looking at the role of finance directors in law firms. This is a joint venture with ICAEW.

The Regional Manager is working closely with North West Regional Development Agency to improve its strategic support to law firms.

The Regional Manager delivered LPC workshop for large corporate firms. This was followed by a further workshop for Greater London firms.

Judicial Appointments Commission seminar in London on 9 November has 100 delegates booked to date.

The Eastern Regional Manager participated in the East of England Development Agency Credit Crunch Business Summit which examined support available to firms.

The Eastern Regional Manager delivered a successful Legal Aid Route Map Conference for the region. The event, which attracted 143 delegates, aimed to offer some new business approaches for legal aid firms. The events was sponsored by the East of England Development Agency and attended by Business Link East, Train to Gain and LawCare.

- **International - practice rights and other bilateral activity**

On the bilateral front the following have been the major developments / activities in the last couple of months:

Bulgaria

The Law Society is actively monitoring the practice rights situation facing foreign law firms established in Bulgaria. Bulgaria has been over restrictive in its implementation of the Establishment Directive, preventing European lawyers from becoming partners in a law firm for up to three years after registration with the Bulgarian Supreme Bar Council.

- Four of the nine foreign law firms currently established in Sofia (including Cameron McKenna and DLA Piper) were fined by the Bulgarian Competition Commission in July 2008 for uncompetitive behaviour. They have appealed the fine in the Bulgarian courts and filed a complaint with the European Commission. The Law Society is liaising with the law firms, the Bulgarian Bar and the CCBE Free Movement of Lawyers Committee to solve this issue. Mickaël Laurans was in Sofia on 26-27 June and Clare Titcomb was there on 5-7 November for meetings with the law firms and the head of the commercial section at the British Embassy.

Clare Titcomb and Bob Heslett went to Sofia on 21 – 22 November for the Bulgarian Advocates Day and met with the President of the Bulgarian Supreme Bar Council and the British Ambassador as well as the affected law firms.

China

We are hosting a visit by an inward visit delegation of lawyers from the Shanghai Bar here at the Law Society on 15 December. The lawyers are interested in finding out more in particular about maritime law. We will be organizing a networking lunch for International Division members interested in developing contacts in China.

As part of our on ongoing efforts to promote England and Wales as the Jurisdiction of Choice, an ADR seminar is being organized with the British Embassy in Shanghai on 15 January.

France

The Law Society took a trade mission to Lille to attend the meeting of the National Association of French Avocats in mid-October. This was considered by those who participated to have been highly successful and will be repeated. It was particularly timely given the interest in France in regulation of the professions following the launch of the Darrois Commission.

The Gulf

The Gulf training programme held in November included sessions for the first time in Abu Dhabi.

India

Prior to the terrorist attacks in Mumbai in late November, we had been hoping to make some progress on Indian liberalisation. The Consulate General in Mumbai had organized an event, scheduled for 3 December, at which the Indian Law Minister and the new Ministry of Justice Minister with responsibility for international affairs, Lord Bach, were scheduled to speak. At present, the LLP Bill is scheduled to be debated in the Indian Parliament on 11 December, but this may be affected by the Mumbai situation and the court case was scheduled for a hearing on 18 December. We are awaiting further updates but it is likely that the terrorist attacks will have set back the discussions on liberalisation.

Korea

A delegation from the Korean Bar, including the President visited the Law Society for the Opening of the Legal Year and attended meetings at the Law Society and the College of Law on 2 October. We are now in the process of organizing a joint seminar in Seoul in February which will deal both with the regulation of foreign lawyers and mark the launch of the Korean Bar's young

lawyers association.

Malaysia

In the margins of the LAWASIA conference, the Vice President, Bob Heslett held meetings with the Malaysian Bar President, the British High Commissioner and a number of Malaysian firms to discuss liberalisation of the Malaysian market. Following intelligence that the Bank Negara Malaysia is planning to issue a number of limited licences for foreign law firms to practice Islamic Banking, we have begun a consultation amongst firms who we understand to be most interested in the market about their priorities for liberalisation.

Mauritius

The President of the Law Society of Mauritius attended the Opening of the Legal Year in October and held a separate bilateral meeting with the President at which various possible areas of future cooperation were discussed. The Mauritius Law Society has since approached us for assistance in setting up their pro bono scheme.

Poland

Although the draft fee-capping legislation which would have affected a number of UK law firms was withdrawn by the new Polish Government after last year's autumn elections, there are still a number of legislative proposals affecting qualification in Poland which have implications for the legal professions in Poland and the Law Society will continue to monitor these developments.

In November a delegation from the Warsaw Council of Legal Advisers visited the Law Society and met with Alison Hook, Mickael Laurans and Clare Titcomb to discuss the Legal Services Act and legal education and training in England & Wales. Clare Titcomb and Bob Heslett also attended the Polish Bar Association's 90th Anniversary in Warsaw in late November and met with representatives of both legal professions in Poland (the Advocates and the Legal Advisers) to discuss recent legislative developments in Poland.

A delegation from the National Council of Legal Advisers will also visit the Law Society in December to discuss the Legal Services Act and legal education and training in England & Wales. Bob Heslett will meet with them, along with Clare and Mickaël.

Romania

The President of the Romanian Bar attended OLY in 2008 and met with Clare Titcomb and Alison Hook and asked the Law Society to participate in a joint project to help the Romanians improve legal education and training through a training of trainers programme. Clare went to Bucharest on 3 – 4 November to meet with the Romanian Bar and follow up on this initial meeting and also met with English law firms, the British Embassy and the European Commission. It is expected that a template for the project will be prepared for early 2009.

Russia

A consultation is currently underway with English firms based in Moscow on a range of options that we have suggested to them as a means of assisting on their training needs. This follows on from a visit by the Department to Moscow in July.

We had excellent feedback from Russian delegates on a three day conference which we organized in late September on jury trials and the rule of law. We have had requests from Russian lawyers for another such conference in February or April 2009 and possibly a similar event in Rostov.

Singapore

Alison Hook and Anne Wittman visited Singapore with Bob Heslett in early November en route to the LAWASIA conference. We took the opportunity to meet up with some of the English firms in Singapore, the British High Commission, the Law Ministry and the Law Society of Singapore. The main objective was to lobby the Law Ministry on behalf of English law firms aiming to get one of the limited number of new super-licences now on offer. An announcement is expected around the turn of the year. We will follow up with further lobbying of the Singapore government to press for the issuance of further such licences.

Spain

Clare Titcomb will attend the annual meeting of the Spanish Bar in Madrid on 12 December 2008 and hold preliminary meetings with the British Embassy and if possible Spanish Bar Leaders, to discuss joint events for the IBA Conference which will be held in Madrid in 2009.

Turkey

We are planning a visit from a group from the Union of Turkish Bars in early December as part of our ongoing joint project, run in collaboration with the French Conseil National des Barreaux and the CCBE. The project is looking at education and training requirements for Turkish advocates and what the Union of Turkish Bars can learn from its European counterparts.

- **International Division**

We now have 80 corporate members of which 33 are Top 100 and a further 16 are based overseas. In addition we have 130 individual members and 1260 registered users of the International Division website whom we hope to convert into paying members in due course.

On the 25 November we held the International Division's flagship event - The International Marketplace. The conference and breakout sessions, which ran during the day, were very well attended (about 150 law firm decision makers), with delegates travelling from 25 different jurisdictions to participate. The evening networking events were also extremely popular, we estimate about 400 people attended throughout the course of the evening. We have received very positive feedback from the participants and the sponsors and hope to capitalise on our popularity by converting some of the conference attendees into corporate members.

Business of law

Much activity relating to the business of law is covered under the heading of 'practical support for solicitors.

International

Marketing of the International Division at the Annual International Event on the 25th November. Numbers required: 150 for both the conference and the structured networking. 300 – 400 for the evening party (all numbers met). Emails sent to over 40,000 contacts with regards to the division and specific to the event. City AM carried an advertisement for the International Division on 3 December.



The Law Society

COUNCIL
17 December 2008

Item 14

Classification – Public

Purpose – For discussion

COUNCIL WORKPLAN 2008 -2009

The Issues

This paper presents the current workplan. The Council meeting is an opportunity to make changes to the issues that are included in the workplan or their scheduling.

Policy Position

Not applicable.

Financial and Resource implications

None arising directly from this paper. The substantive debates may well have significant financial and resourcing implications.

Equality and Diversity implications

None arising directly from this paper. The substantive debates may well have significant equality and diversity implications.

Consultation

The Council reviews the workplan at each meeting.

Director	Frances Low, General Counsel
Author	Flick Heron
Date of report	28 November 2008

Meeting	Matters for decision	Reports
8 October 2008	<p>Law Society membership structure (Membership Board)</p> <p>Council size and composition (CMC)</p> <p>Committee structures (LAPB)</p>	<p>CEO and Board reports (to be given individually)</p> <p>SRA/LCS Board reports</p>
12 November 2008	<p>Draft 2009 budget and business plan (Management Board)</p> <p>Committee structures-follow up to October (LAPB).</p> <p>Council size and composition-follow up to October (CMC)</p> <p>Law Society membership – postal ballot results (Membership Board)</p> <p>Board workplans for 2009 and year-end reports on 2008 (all Boards)</p> <p>Legal aid: the impact of the settlement (LAPB)</p> <p>Contingency funding (LAPB)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p>
17 December 2008	<p>Final 2009 budget and business plan (Management Board)</p> <p>Oversight of SRA (Management Board)</p> <p>Indemnity insurance renewals (RAB)</p> <p>Accreditation schemes (RAB)</p> <p>SRA Board appointments (Management Board)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p>

28 January 2009	<p>The Council's E&D strategy (E&D Committee)</p> <p>Communications: the website and communications with LLSs and constituents (Membership Board)</p> <p>The QLTR (RAB)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p> <p>TLS committee reports: the conveyancing and wills and equity committees</p>
11 March 2009	<p>Conveyancing: the Society's strategy and new developments (LAPB).</p> <p>Judicial appointments (LAPB)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p> <p>Annual reports of Council committees for 2008</p> <p>TLS committee reports</p>
29 April 2009	<p>Compensation Fund contributions (Management Board)</p> <p>Following the LSB's formal establishment, settling responses to any LSB consultations on</p> <p>(a) the rules for separating regulation and representation;</p> <p>(b) the principles for the apportionment of the levy;</p> <p>(c) LSB policy statements (Management Board/RAB)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p> <p>TLS committee reports</p>
10 June 2009	<p>Approval of the annual accounts for 2008 (Management Board)</p> <p>Deadline for Bye-Law changes to go to the AGM (including Council size and composition)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p>
22-23 July 2009	<p>PC fee-setting (Management Board)</p> <p>Review of Board structure/working (Management Board/all)</p>	<p>CEO and Board reports</p> <p>SRA/LCS Board reports</p> <p>Mid-year report on budget</p>

COUNCIL
17 December 2008

Item 15a

COUNCIL MEMBER MOTION

In accordance with General Regulation 8, Lucy Scott-Moncrieff will move the following motion at the Council meeting on 17 December 2008:

'That Council should debate, at an early opportunity, the transparent, objective, criteria that should be used for measuring the performance and value of specialist committees to the Law Society.'

COUNCIL MEMBER MOTION

In accordance with General Regulation 8, Michael Garson will move the following motion at the Council meeting on 17 December 2008:

'That Council confirms as policy that the fees raised by levy upon solicitors and available to the Society as income which may properly be used for representative purposes shall not be applied for the funding of any resource, expense or cost for any directorate unless it primarily relates to work for the direct benefit of solicitors in employment and in practice and is contained within the approved work plan the relevant Board of Council or within the remit of a Council Committee or the Presidential Plan.'

COUNCIL
17 December 2008

Item 15c

COUNCIL MEMBER MOTION

In accordance with General Regulation 8, Jenny Gracie will move the following motion at the Council meeting on 17 December 2008:

'That the decision of Council made on 12 November 2008 relating to the disestablishment of the ADR Committee be rescinded on the basis that Council was under a misunderstanding.'



The Law Society

Item 21 (iii)

COUNCIL
17 December 2008

Classification – Public

Purpose – for decision.

LCS BUSINESS PLAN 2009-10

The Issues

LCS Business Plan for the two year period up to closure, as agreed by the Board of the LCS and by Management Board.

Decision

The Council is invited to approve the LCS Business Plan 2009-10.

Policy Position

Not applicable.

Financial and Resourcing implications

The Plan proposes changes to future recruitment strategies, staffing levels and contractual conditions of new staff. The budget required shows a notable reduction on the forecast year end budget of this year.

Equality and Diversity implications

This paper will affect LCS staff and customers (consumers and solicitors). Changes to staffing conditions could disproportionately affect different groups of staff, LCS staff and management, all external stakeholders and especially the LSB, OLC, OLSCC and OLSO.

Consultation

Internally – the draft plan was developed and reviewed by LCS's SMT members as appropriate.

Externally – a version of the draft plan was reviewed by the Board of the LCS, TLS Management Board, the MoJ, the LSB, Consumer Focus and the LSCC.

Date of report November 2008.

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ru jlyh d z ulwhq frqilup dwrq wkdwghgxfwlrqv z huh qrw p dghl Z h h{shfwz h z kqghg wr frqwdfwd wrwdo ri durxgg 68/333 folhgw/dokrxjk wklv hwlp dwh p d| fkdqjh irærz lqj wkh wldo p dldqj dw wkh hqg ri 533;/ dgg dv p ruh vrdflwruv djuh wr z ulwh wr wkhlu folhgw wkhv vhyhvl

Z klowwklvuhp dlqv d vljq lildqwdvn/z h z kogr dvp xfk dv srwledh wr uhvroh wklv duhd ri frqvxp hughwlp hqwehiruh frp sælqwkdgqgqj lvdqghg ryhuwr wkh R OF 1

F r p s æ l q w K d a g g d a g j

R x u s x u s r v h l v w r u h v r o g h f r p s æ l q w i u r p p h p e h u r i w k h s x e d f d e r x w s r r u v h u y l f h s u r y l g h g e | w k h l u v r o d f l w r u l Z h k d y h d w d p r i g h g l f d w h g f d v h z r u n h u v z k r d u h f r p p l w h g w r i l g g l a j w k h e h w u h v r o x w i r q x v l a j d y d u l h w | r i v n l o v / d a g d w l a r u h g d s s u r d f k w r v x l w w k h q h h g v r i w k h s d u w l h v l

Z h r i i h u d K h a s o d g h v h u y l f h w r e r w k w k s x e d f d a g v r o d f l w r u w / w r d v l w d a g g j x l g h w k h p z l w k h d u | f r p s æ l q w u h v r o x w i r q 1 R x u f d v h z r u n h u v z r u n h i i h f w l y h o | d a g h i i l f l h q w | w r e u l a j d v p d a | f d v h w r h d u | u h v r o x w i r q d v s r v l e d i / d a g / z k h u h d j u h p h q w l v q r w s r v l e d i / w r d f k l h y h d i d l u d a g w i p h o | r x w f r p h i r u d a s d u w l h v l

R y h u w k h s d w | h d u z h k d y h e h g f r p s d w l a j w k h f l u f d n y f r a e w l a j l q i r u p d w i r q d a g w u h q g v i u r p w k h f r p s æ l q w z h u h f h y h d a g s d w l a j w k l v e d f n r x w w r w k h s u r i h w i r q / w r k h a s v r o d f l w r u w u d l h w k h l u r z q d y h o v r i f o l h q w f d u h d a g w r u n g x f h w k h q x p e h u r i f r p s æ l q w r f f x u l a j 1 W k l v k d v l q f o x g h g v h p l q d u v / w d l q l a j p d w h u l d o v / u h j x a d u l w h p v l q w k h d j d o p h g l d / f d v h w k g l h v r q r x u z h e v l h d a g w k h l q d x j x u d w i r q r i w k h d a g x d o d z d a g i r u H { f h a h q f h l q F d h q w F d u h l

G x u l a j 533 < w k h w d p z l o f r q f h q w u d w h r q p d l q w d l q l a j r x u s h u i r u p d a f h 1 Z h z l o l q w u r g x f h l q y h w p h q w u i u h h i i l f l h q f | l p s u r y h p h q w z k h u h q h f h w d u | w r w d f n d a g | x q h { s h f w h g f k d a j h v d a g z h d l p w r k d a g r x u k l j k o | v x f f h w i x o z r u n r q u d l v l a j f o l h q w f d u h w d a g d a g v l q w k h s u r i h w i r q r y h u w r W k h O d z V r f l h w | # W O V , 1 I u r p R f w r e h u 533 < z h z l o i u h } h d a s u r f h w h v / r q o | p d n l a j d a | i x u w k h u f k d a j h v z k h u h q h f h w d u | w r f r s h z l w k x q i r u h v h q v l w d w i r q v l W k l v z l o d a r z x v l q 5343 w r i r f x v r q f d u h i x a o | p d a d j l a j Z r u n I q S u r j u h w d a g p d l q w d l q r s w i p d o d y h o v r i v h u y l f h l

Z h u h f r j q l h w k d w w k l v i l q d o s h u l r g r i r x u r s h u d w i r q z l o e u l a j p d a | f k d a h q j h v l W k h g r z q w u a j l q w k h h f r q r p | l v f k d a j l a j w k h d p r x q w d a g w | s h r i z r u n j l y h q w r v r o d f l w r u w / d a g p d a | i l u p v d u h a r n l a j d w x q f h u d l q i x w u h v l Z h k d y h d a h d g | e h j x q w r v h h f k d a j h v w r w k h w | s h v r i f r p s æ l q w z h u h f h y h d v d u h v x o w r i w k h r y h u d o h f r q r p l f f o p d w h d a g d u h d a r d z d u h w k d w f r q w x p h u v k d y h d j u r z l a j d s s h w h i r u f k d a h q j l a j w k h v h u y l f h w k h | u h f h y h 1 D o w k h v h i d f w r u w l p s o | z h f r x a g v h h p d n r u f k d a j h v l q w k h f r p s æ l q w z h u h f h y h l q i x w u h / l q f o x g l a j d a l q f u h d v h l q y r o x p h /

D w k h v d p h w i p h / z h d u h w d u w l a j w r v h h w k h u h i r u p v r i w k h O h j d o v h u y l f h v D f w 533 : f r p h w r d i h / f u h d w l a j d q h z u h j x a d w r u | a d a g v f d s h i r u d j d o v h u y l f h v l W k h l q f r p l a j R O F z l o v l j q l i l f d a g w | f k d a j h k r z u n g u h w l v s u r y l g h g w r f r q w x p h u v r i d j d o v h u y l f h v l I w d a r u h s u h v h q w d e l j f k d a j h i r u O F V / e r w k i r u r x u f x w a p h u v d a g r x u w d i i l W k l v q h z r u j d a l d w i r q z l o u h t x l u h w i p h w r v h w l w g l u h f w i r q d a g s x w l q s a f h l w d u f k l w h f w u h l Z h k d y h j u h d w f r q i l g h q f h l q w k h s u r f h w i r u i r u p l a j w k h q h z R O F l q w k h Z h w P l g a d a g v l K r z h y h u / z h d f n q r z d a g j h w k d w w k h f x u h q w a e f n r i f a e l u w | r i w k h k a g g r y h u s u r f h w / s u h v x u h v r i e x g j h w d u | f r q w u d l q w g x h w r w k h l p s d f w r i w k h f u h g l w f u x q f k r q w k h s u r i h w i r q d a g d f o p d w h r i x q f h u d l q w | z l o f k d a h q j h r x u d e l a w | w r p d l q w d l q r x u w d i i l a j d y h o v d a g w d a g d a g v r i v h u y l f h l W r j h w k h u / w k h v h i d f w r u w z l o u h t x l u h x v w r p r q l w r u / d a g r x w d a g u h d f w i h { l e o | d v q h f h w d u | w r p d l q w d l q r x u r e n i f w l y h v d a g k l j k w d a g d a g v d a g v x s s r u w r x u f x w a p h u v d a g w d i i w k u r x j k w k l v w i p h r i f k d a j h l

OrfdoFrqfiddwlrq R iilfhuv-OFR v,

Z h kdyh duddqjhg wkh vssruw ri d qhwz run ri arfdo yroxqwhuv z kr duh jhrjudsklfdoe| vsuhdg durxqg wkh frxqwu| wr hqwxuh z h duh dffhwledh wr fxwrrp huv z lkw h{wud qhhgv1 Wkh| duh dydlodeh iru xv wr fdorq dv uhtxlung dgg surylgh d idfh0wr0idfh vhuylfh iru fxwrrp huv z kr duh yxqghudeh ru fdqqrwghdoz lkw OFV wkurxjk wkh grup dofkdqgho1

Gxulqj 533< wkh OFR v z lwrqwlqpxh wklv urdh1 Iq 5343 wkh| p d| eh xvng p ruh ich{leo| wr vssruwdggwlrqdouhvroxwlrq ri fdvivehiruh wkh wudqvihu ri fdvz run wr wkh R OF 1

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Wkh dgmxglfdwlrq ixqfwlrq lv wkh ilqdosrlqwlq wkh fdv z run surfnw/z khuh rwxhu p hwrgrv kdyh suryhg xqwxffhwixo dgg z h kdyh ehq xqdedh wr uhdfk dq dssursuldwh uhvroxwlrq ehwz hqg wkh fxwrrp hu dgg wkh vrdflwru1 Wkh dgmxglfdwru z lwrqvlghu wkh hylghqfh surylghg e| wkh fxwrrp hu dgg wkh vrdflwru darqj z lkw wkh uhrp p hggdwlrqv p dgh e| wkh fdv z runhudgg z lwrp dnh d irup doghflwlrq rq wkh fdv1

Gxulqj 533; wkh dgmxglfdwlrq whdp z huh p ryhg lqwr OFV wr ehfrp h dq lqwhjudosduwri rxu z runlqj1 Wklv ghglfdwng z runlqj z lwr eh rswlp lnhg dw wkh wduw ri 533< wr dfk lnyh wlp ho| uhvroxwlrq ri ddfdvhuhtxlung dgmxglfdwlrq1 Gxulqj 5343 wkh whdp z lwrp sdwh dvp dq| uhp dlqqlqj dgmxglfdwlrqv dvrwledh ehiruh wkh wudqvihu ri fdvz run wr wkh R OF 1

Z run Iq Surjuhw-Z IS , Ohyhov

Z h kdyh dauddg| vjqlilfdqwo| uhgxfhg wkh qxp ehuri fdvhuhtfhlyhg exwqrv| hwfrp sdwhg +Z IS ,1Z h z lwrqwlqpxh wr p dlqwdlq d arz dnyho/wr p lqlp lnh wkh lp sdfwdwkdqgryhu/exw z h z lwrws vkruwri jrlqj eharz wkh dnyho z khuh fdvz runlqj ehfrp hv dhw hiilflhqw1 Wr p dlqwdlq wkh uhtxlung fdsdfw| wr farv fdvhu dv idw dv z h uhfhlyh wkhp / z h qhhg d vhw qxp ehuri fdvz runhu1 Gxh wr wkh wrs0wduwqdwuh ri lqyhwljdwlrqv/z dlwqj iru uhtsrqwhv iurp ydulrxv sdwlvhu/hdfk fdvz runhu qhhgv wr kdqgdh vnyhudo fdvhu dw wkh vdp h wlp h wr eh ixoo| rffxslhg1 Wkhvz r idfwrwkhuhiruh ghwhup lqh d p lqlp xp dnyhori Z IS uhtxlung wr hiilflhqwo| dfk lnyh wkh uhtxlung fdsdfw| 1 Wkhvz r SR v+K 4 dgg K 5, kdyh ehq ghyharshg lq wklvz d| 1

Iw lv srwledh wkdw frp soqlwuhfhlsz z lwr idoqrwlfhdeo| lq wkh inh p rqwkv suhfhglqj wkh kdqgryhu wr wkh R OF 1 Ii wklv kdsshqv/rxu fdsdfw| fdq eh uhgxfhg/vrp h fdvz runhu fdq eh uhdvng iru vssruwrwudlqqlqj z lkw wkh qhz rujdqlwlrq dv uhtxlung dgg rxu Z IS z lwr uhgxfh dvd frqvhtxhqfh1

Shuirp dqfh D wxudqfh dgg Uhsruwlrqj

Z h z lwrp rqlwru rxu surjuhw dgg shuirp dqfh djdlqvw wklv Soq wkurxjk dq hiilflhqw frp elqdwlrq ri vhai0fkhn.lqj/lqwhudodxglwdqg rxu lqghshqghqwdwxudqfh ixqfwlrq/xvlqj wkh SR v dgg d udqjh ri vssruwlrqj Nh| Shuirp dqfh Iqglfdwru wr dwhw rxu shuirp dqfh1 Wrjhwkhu z h z lwr surdfwlyho| frawh dgg dgdobh dwdshfw ri gdw wkurxjk wkh Exvlqhw Dqdb| viv dgg Iqirup dwlrq whdp dgg uhsruwkhv uhjxawo| wr wkh arfdo p dqdjhp hqw| rxu Erdug dgg nh| wdnhkrqghuwr hqwxuh wudqvsduhqf| dgg dffrxqwdelbw| wkurxjkrxwwklv wlp h1 Dv z hoo dv urxwqh uhsruwlrqj/ z h z lwrqwlqpxh wr surylgh dg krf lqirup dwlrq rq shuirp dqfh/hqdedqj p dqdjhp hqwwr lghqwi| / lqyhwljdw dgg soq durxqg exvlqhw lwxhv1

Wkh hihfwilyhghw ri rxu frqwrav z kœeh uhylnz hg lqghshqghqwo| e| wkh WOV lqwhuqdo dxglw ixqfwlrrq dgg vfuwqlkhhg e| wkh WOV P dqdjhp hqwErduj1R xu shuirup dqfh z kœeh ixuwku yhulihg e| dxglw iurp rxuuhjxœwru/wkh OhjdoVhuylfhvFrp sœllqwFrp p lwlrqhu +OVFF ,1

Gxulqj 533<043 z h z kœeh surylglqj ghwdlhhg lqirup dwlrrq wr d z lghu jurxs ri wdnhkrœghw wr dvlw sœdqqlqj iru wkh hyhqwdo kdqgryhu ri z run dgg farvxuh/ dv z hœ dv p rqlwruqlqj p ruh farvho| iru z duqlqj vljqv ri shuirup dqfh fkdqjh gxh wr xqxvdo idfwruw1 Iq dgg lwlrq z h z kœ surylgh iruhfdwv dgg p rghv wr vxssruw erwk wudwhjlf dgg ghwdlhhg exvlghw sœdqqlqj1

T xddw|) Vhuylfh Vdaggdugv

Z h surylgh lqwhuqdotxdddwl| dvxudqfh dgg dxglw iru wkh rshudwlrrqdo xqglw iurp wkh T xddw| dgg Vhuylfh Vdaggdugv whdp 1Wkurxjk wk lv whdp z h dœr frœwh dgg dqdo|vh dxglwgœwd dgg ihhgedfn iurp rxu h{whuqdo wdnhkrœghw/ wkh OVFF dgg OVR / dv z hœ dv fduwqlqj dgg dqdo|vlqj vdwidfwlrrq gœwd iurp fxwrrp hu dgg vrdflwruw1 E| frp elqlqj uhdhqdwwdwilwlv dgg ihhgedfn iru wkh exvlghw/z h fdq hqvzuu dgkhuhqfh wr wkh txdw| wdujhww dgg wdaggdugv dgg sulruwlvh txdw| lp suryhp hqwl Z h dœr p dqdjh rxu lqwhuqdo frp sœllqw surfhgxuh lq wk lv whdp /ghdqlqj z lw frp sœllqw derxwrxu vhuylfh/dgg djuhhlqj frp shqvdwlrrq dz dugv li dgg z khq dssursudwh1

Iq 533< z h z kœ frqwlqxh wr uhylnz dgg p dlqwdlq fxwrrp hu vhuylfh srdflw/gholyhu uhdhqdww dqlqlqj/dgg dxglw djdqlw wkh Shuirup dqfh R enhfwiyh wr hqvzuu d jrrg dnyho ri fxwrrp hu vhuylfh1 Z h z kœ dœr rswlp lh wkh dnyho ri fkhfnlqj uhtxlhhg wr p dlqwdlq wkhvh wdaggdugv/ vhnlqj wr uhp ryh fkhfnlqj wk dw lv qr arqjhu uhtxlhhg dv rxu rz q shuirup dqfh lp suryhp dgg wkh surfhwlvduh vkrz q wr eh urexw1

Whfkqlfdo Srdf| dgg Wudlqlqj

R xu Whfkqlfdo Srdf| dgg Vxssruw whdp hqvzuu wkh uljkw lqirup dwlrrq lv jlyhq wr wkh uljkw shrsch dwwkh uljkw wlp h dgg lq wkh uljkw iurp dwl Wk lv lqfoxghv surgxflqj jxlgdqfh qrvhv/ z runlqj z lw frœndjxhv wr ghyhars/xsgdwh dgg ughz srdflw/hqjdqlqj z lw wdnhkrœghw dgg whfkqlfdo frœndjxhv dfurw wkh exvlghw/ dgg lp surylqj wkh lqirup dwlrrq dydloedh rq wkh z hevlvh wr xvhuw ri wkh vhuylfh wr p hhw fxwrrp huŋghghv1 Z h hqvzuu wk dw lqirup dwlrrq lv fxuhqwdgg wkh fdvh z runhuw kdvh wkh lqirup dwlrrq wkh| qhhg wr lp suryhp surgxflwlv| dgg p hhw wdujhww1 Z h dœr surylgh d ydulhw| ri whfkqlfdo wudlqlqj wr hqvzuu fdvh z runhuw duh htxlsshg z lw wkh uljkw vnœw wr gr wkh lurre1 Iq dgg lwlrq/ z h p dqdjh wkh frqwhqwr ri rxu lqwhuqdo dgg h{whuqdo z hevlvh dgg fudwh vroxwlrrqwr wr dvlw z lw lqirup dwlrrq wrudjh dgg vœdulqj1 Z h z run lq sduwkuwls z lw whfkqlfdo frœndjxhv dfurw wkh exvlghw wr surp rvh frqvhwqwlqwhusuhw dwlrrq ri rxu srz hu dgg wr hqvzuu wk dw dœw dlii dfk llyh wkh kljk dnyho ri lqirup dwlrrq dwhudf| uhtxlhhg ri nqrz dngjh z runhuw/xqghu wdaggdugv wkh sduwkh| sœl lq kljk txdw| nqrz dngjh p dqdjhp hqwlq wk lv nqrz dngjh ulfk fdvhz runlqj hqylurqp hqwl

Gxulqj 533< z h z kœ frqwhqwdwh rq nhhs lqj fdvh z runhuw xs wr gdw z lw dœwkh whfkqlfdo dgg srdf| lqirup dwlrrq wkh| qhhg wr p hhw frqvhwqwwdaggdugv ri fdvhz run/dgg frqwdqwo| lp suryhp wkh frqwhqwr dgg p dqdjhp hqwr ri whfkqlfdo nqrz dngjh lqwhuqdo| dgg h{whuqdo|1 Z h z kœ dœr frqwlqxh wr z run z lw wkh fhqwdœ WOV vhuylfh wr surylgh uhsrqvhw wr wkh lqfudhvlqj xqp ehuv ri IR L dgg GSD vxenfwdffhw uhtxhw1

Vdiiilqj

R xuKU vhuylfh lvsurylgfh fhqwdoo| iurp WOV1 Z h kdyh duhsrqvleldw| wr z run z lwk WOV wr p dqdjh/ lqirup dqg vxssruw rxu wdii wkurxjk wkh p dq| fkdqjlv lqyroqhg z lwk farvxuh dqg kdqgryhu/ lqfoxglqj wkh dssolfdwlrq ri WX SH0w| dn duudqjhp hqw1 Z h z loeh z runlqj farvhq| z lwk WOV wr dfk llyh wkh ehwryhudorxwfrp h1

P lqgixori wkh hyhqwdo farvxuh ri OFV/gxulqj 533< z h z loehylhz z klfk srww uhdndhg wkurxjk wdii dwulwlrq duh ilahg/dqg p rylqj iurp shup dqhgwwr il{hg whup frqwdfw iru qhz wduhuw1

ExvlqhwVxssruw

Z h z k  frqwlq xh wr wuhdp dqh rxu vxssruw vhuylfhw wr surylgh d dndq/ ydoxh iru p rqh| rshudwlrq l Wkh qhfhwdu| exvlqhw ixqfwlrqv duh vhhq dv wudwhj | / frp p xqlfdwlrqv/ exvlqhw lp suryhp hqw dgg ht d w|) glyhuw| 1 Exvlqhw vxssruw iru rwkhu nh| duhdv z k  eh surylghg e| Wkh Odz Vrfllhw +WOV, wkurxjk wkh wkdung Fhqwdvhuylfhw ixqfwlrqv ri ilqdgfh/ dhjdo/ lqwhuqdo dxg l/ lW/ idflwlvhw dgg kxp dq utvxufhw l

ExvlqhwVxssruwz k  frqvhwri : p dlq duhdv=

- Exvlqhw fkdqjh dv qhfhwdu|
- Frqfoxvtrq ri wkh Htxd w| dgg G lyhuw| +H) G , wudwhj | lp sdp hqwdwlrq
- Frwuhgxvtrq dgg hiilflhg f| lq lwdwlyhw
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- Frp p xqlfdwlrqv/ z l k d wurqj irfxv rq lqwhuqdo dv z h o dv h{whuqdo frp p xqlfdwlrqv
- Rqjrlqj ddvtrq z l k wkh R OF / Ohjdo Vhuylfhw Erdug +OVE , dgg P lqlwu| ri Mkwlfh +P rM l
- Wudwhjlf rswtrqv dgdoblv iru ydulrxv R OF p rghovdgg farvuh vfhqdulrv

Exvlqhw fkdqjh dv qhfhwdu|

E | wkh hgg ri 533 < z h z k kdyh frp sdwhg wkh p dnuw| ri wkh 60| hdu lp suryhp hqwdjhggd wduwhg lq 533: +yld wkh vl| lp suryhp hqw surjudp p hv, dgg suhsduhg iru wkh wdgvlhu ri frp s llqw wr R OF dgg wkh farvuh ri OFV lq 5343 surfhwv z k eh iur} hq dgg wkh rqq| qrq R OF irfxvwhg exvlqhw fkdqjh z k eh wkh frqfoxvtrq ri wkh FK FV sunhw l

Z h z k qhghg wr frqvlg hu dohuqdwlyh wudwhjlf rswtrqv iru erw kkh Orqgrq dgg Ohdp lqjwrq riilfhw z klow frqvlg hu lqj wkh yhu| gliihuhqwghp dggv s lfhg rq wkh rujdq lwdwlrq e| wkh nh| w nhkr ghu v rxu fxwrp hu/ wkh R OF dgg WOVL P ruh ich{leldw| z k eh exlw lqw rxu wuxfwuh dgg wdii lqj wr p dlqwdlq rxu fdsdf l w| dgg kljk wdggdugv wkurxjk wklv wlp h ri vljq lildqg fkdqjh l Wklv ich{leldw| z k eh dfklhyhg wkurxjk d ydulhw| ri gliihuhqw p hfkdq l p v/ lqfoxg lqj p xowlon lqj/ p ruh xv ri h{whuqdo utvxufh dgg gliihuhqw irup v ri frqwdfw irudq| qhz wdii l

Frqfoxvtrq ri wkh H) G wudwhj | lp sdp hqwdwlrq

Z h z k  frqwlq xh wr gholyhu djdlqw rxu ilyh nh| H) G wudwhj lhw e| lp sdp hqwdwlrq wkh dwrflwng wdgqg v ri rxu D fwrq S dq l Wkurxjk dgdoblv/ wuhqg lghqwlildwlrq dgg vevhtxhqw dfwlrq s qv z h z k  gholyhu dq dffhwledh fxwrp hu vhuylfhw wllaruhg wr wkh glyhuw qhghv ri rxu frqvxp hu dgg vrdflwruw l Z h z k  z run wr lghqwi| dgg utvryh dq| dssduhgw lqht d w| lq rxu vhuylfhw gholyhu| 1 Z h z k  ex lqg wdii dgg w nhkr ghu hqjdjhp hqw dgg hiilfwlyho| frp p xqlfdwlrq rxu H) G frp p lp hqwl D p rgx u h O hduq lqj sdfndjh z k  hqdedh xv wr gholyhu wdlq lqj dgg udlw rujdq lwdwlrq do glyhuw| dz duhqhw dgg e| lghqwi| lqj nh| srolflhw dgg xqghuwh lqj lp sdfwdwlvw p hqw z h z k  hqvuh wkdwz h duh d idlu dgg glyhuw| rulhqwng hp scr | hu l

Rqjrlqj ddvtrq z l k wkh R OF / OVE / P rM dgg rwkhu w nhkr ghu l

Z h z k  frqvrdqgdw rxu farv dqnv z l k wkh deryh erg lhw wkurxjk wkh rqjrlqj z run ri wkh Uhjx wru| D iidlu Whdp 1 R xu dlp lv wr z run frqwuxfwlyho| z l k w nhkr ghu wr vxssruw

wkh hwdedk p hqwr i wkh R OF d v d z ru g f o l w f r p s o l l q w k d q g d q j e r g | 1 Z h z k o r i i h u r x u l q v i j k w / h { s h u w i h d q g n q r z d n g j h d e r x w f r p s o l l q w k d q g d q j l q w k h d n j d o v h u y l f h v p d u n h w r k h o s w k h R O F E r d u g d q g v h q l r u p d q d j h p h q w p d n h l q i r u p h g f k r l f h v d e r x w w k h v k d s h r i w k h q h z r p e x g v p d q v f k h p h 1 Z h e h d l y h w k d w k l v z k o d w l w d v p r r w k d q g h i i l f l h q w w d q v i h u r i z r u n i u r p O F V w r R O F z l w k r x w g h w l p h q w w r w k h f x w r p h u l Z h d u h d o r z r u n l q j f o r v h o j z l w k W O V d q g w k h V r o f l w r u v U h j x o d w i r q D x w k r u l w | + U D , l q u h o d w i r q w r w k h l p s d f w r i w k h f u h d w i r q r i w k h R O F 1

G x u l q j 5 3 3 < z h z k o e h d y l m q j w k h R O F r q z k d w z h g r r s h u d w i r q d o e | w r l q i r u p l w g h f l w i r q o p d n l q j d q g d j u h h l q j w k h g h w d l o v r i f o r v u h z l w k W O V d q g k d q g r y h u z l w k R O F 1

U h y l h z d q g p d l q w d l q j f h r i O F V s r d f |

Z h z k o f r q w l q x h w r u h y l h z w k h s r d f l h v x q g h u s l q q l q j r x u f r p s o l l q w k d q g d q j s u r f h w i v d q g d g d s w w k h p d v q h f h w d u | w r u h i d f w e h w s u d f w i f h d q g f x w r p h u q h h g v l S r d f | z r u n z k o l q f o x g h d q g u h w l q j u l t n v v x f k d v n e g l f l d o u h y l h z d q g u h s x w d w i r q d v z h o d v l q i o x h q f l q j w k h R O F l q w h u p v r i v f k h p h u x d v l

G x u l q j 5 3 3 < z h z k o f r q w l q x h w r h q v u h r x u s r d f l h v d u h x s o w r o g d w h / f o d u d q g i l w i r u s x u s r v h l q g h d y h u l q j r x u v h u y l f h v l D v z h d s s u r d f k f o r v u h / z h z k o u h w u l f w s r d f | z r u n w r w k d w u h t x l u h g e | w d w k w r u | f k d q j h d q g H) G u h t x l u h p h q w l

F r w u h g x f w i r q d q g h i i l f l h q f | l q l w d w i y h v

5 3 3 ; v d z w k h v x f f h w i x o l p s d h p h q w d w i r q r i d f r w u h g x f w i r q h { h u f l h z l w k v d y l q j v d p r x q w l q j w r r y h u 9 (r i e x g j h w l W k h s u n i f w k d v l q h q w i l l h g u d q g l v g h d y h u l q j 0 f o k v d y l q j v i r u w k h i l q d q f l d o | h d u M o q x d u | 5 3 3 ; w r G h f h p e h u 5 3 3 ; 1 I q 5 3 3 < / z h z k o f r q w l q x h w r i r f x v r q f r w w z k l h p d l q w d l q l q j r x u t x d o w | d q g h i i h f w i y h q h w l Z h d u h f r p p l w h g l q s d u l f x o d w r i x u k h u w i h d p d q l q j r x u v x s s r u w d f w i y l w i v d v d s s u r s u l d w h d v z h p r y h w r z d u g v k d q g r y h u z k l o w p d l q w d l q l q j w k h t x d o w | r i r x u v h u y l f h w r r x u f x w r p h u l

I r u 5 3 3 < z h z k o e x l o g r q w k h y d u l r x v f r w u h g x f w i r q d u h d v d a u h d g | l q h q w i l l h g d v z h o d v l q y h w i l j d w l q j i x u k h u d u h d v l R x u 5 3 3 < e x g j h w d a u h d g | l q f o x g h v d 4 3 (v d y l q j l q u h d o w h u p v d j d l q w w k h p l g 0 | h d u i r u h f d w i r u 5 3 3 ; h { s h q g l w u h l

F r p p x q l f d w i r q v

Z h z k o f r q w l q x h w r x v h r x u F r p p x q l f d w i r q v w h d p w r v x s s r u w d q x p e h u r i d u h d v r i n h | e x v l q h w d f w i y l w | w k u r x j k r x w 5 3 3 < 1 D v z h o d v k d q g d q j d o w k h r u j d q l w d w i r q v l q w h u q d o d q g h { w h u q d o f r p p x q l f d w i r q v p h w d j h v / w k h w h d p z k o d h d g l q u h j d u g w r n h | w a n h k r o g h u d q g s d u d o p h q w d u | d d l v r q 1 W k h v h d f w i y l w i v z k o e h s d u l f x o d w | l p s r u w d q w g x u l q j w k h g l v f x w i r q v u h j d u g l q j w d q v l w i r q d a u h d g | x q g h u z d | z l w k w k h P r M d q g w k h w h d p z k o s u r y l g h d d q n w r w k h q h z o | i r u p h g G h s d u p h q w r i H q y l u r q p h q w d q g F o p d w h F k d q j h d v w k h l q l w d w i y h w r e u l q j u h g u h w r i r u p h u p l q h u v l q H q j o d q g d q g Z d d h v j d w k h u s d f h l

Wadhwjlf rswlrqvdqdd| vlv iru ydulrxvR OF p rghvdqg farxuh vfhqdulrv

Iwz kœeh wkh R OFÑghflvtrq wr ghwhup lqhwk wuxfwuh riwkh qhz rujdqldvtrq/darqj z lwk wkh wlp lqj dqg p hwkrq ri wdgqvihuulqj frp sœllqw iurp rxuhojhvr wkh qhz rujdqldvtrq1 Wk.lvwdgqvihu frxœg eh d œlj EdqjÑdssurdfk/ru dq| ydulvtrq rid skdvng wdgqvihu ryhuwlp h +z klfk surylghv ehwhu fxwrp hu vhuylfh dqg sdwldœ p lwjdwhv wkh uln ri wdwulqj d qhz rshudvtrq iurp vfudwk,1

Z h unfrjq.lh wkdw lw frxœg eh khasixœ/dqg p d| hyhq eh qhfhwdu|/wr p rgli| rxu z d| ri z runlqj lq dqwiflsvtrq ri wkh R OF fuhdvtrq/wr vxssruwhdv ri wdgqvihu dqg dydœlelv| ri vxlwœdch unvrxfhv dv untxluhg1 Z h duh dœr dz duh wkdw z h p d| qhng wr unsvrqg wr wkh hqylurqp hqw fuhdvng e| wkh R OFÑghyhoersp hqwri wkhlu ixwuh dssurdfk/wr hqvxuh z h fdq p dlqwdlq p ruddh/wdiilqj/jrrg vhuylfh dqg p lq lp doedfnarj lq wkh lqwhulp 1Iw lv wkhuhiruh hvhqwldœwkdwz h frqvlqxh wr lqyhwljdvh fhuwldq dvshfw ri wkh ixwuh hqylurqp hqwdv sdwri rxu unsvrqvledch uln p dqdjhp hqwl

Wk.lv z run/z klfk z kœeh unwulfvng wr yldœdvshfw rœd|/z kœhqdedh xvuhœœœ| lqirup nh| wdnhkrœghuv unjduglqj wkh lwzhv wkh| duh frqvlghulqj1 Iru h{œp sdh/z h kdvh ehhq dedh wr surylgh rxughwldng dqg sudfwlfdœlqv lqkw lqwr wkh unœwlyh ehqhilwri Elj Edqj dqg Sduœho Uxqq.lqj1 Iq dgg.lvtrq/ lw z kœhqvxuh z h duh z hœllqirup hg lq p dqdj.lqj rxu rswlrqv iru p dlqwdlq.lqj shuirp dqfh ryhuwkh shulrg xs wr wkh farxuh ri wkh OFV1

Sæqqqlqj D wxp swlrqv +dgg krz wkh| diihfwk.lv Sæq,

533< lv gliilfxow wr iruhfdw dffxuðho| /dv wkhuh ðuh p dq| h{whuqðo lqioxhqfhnv rø OFV dgg frp sællqgw kdqgðqj1 Vhyhub vlijqlilfdqg ghflvtrqv ðuh qrw |hw p dgh dgg ðuh rxwðgh OFV frqward lq rughu wr exlqg d sæq iru wkh uhp dlqqlj shulrg lwkdv ehqg qhfhvdu| wr p ðnh fhwalq dwxp swlrqv/ dv rxwðqhg lq rxu Iruh rug1 Dv wkh wslfv ri wkhv dwxp swlrqv ehfrp h fæulilhg/ wkh Sæq z kœ eh xsgðwhg wr p dlqwdlq lw yððq| dgg dq| fkdqjh iurp wkhv p d| uhtxluh frqwlqjhf| ixqglqj1

OFV +Ohp lqjwrg dgg Orqgrq, wr farv rø 64 P ðfk 5343 -hduðhwðnh| gðh,

Wk.lv ðærz vfhwalq dqwflsdwru| p hðxuhvwr eh lqurgxfhg iurp p lg0533<1Wkh uln rixvlqj wk.lv hduðhwgðh lv wkðwkh uððw| lv ðnh| wr uhtxluh p ruh uhvrxufh dgg exgjhwkðq jlyhq lq wk.lv Sæq1 lw lv ðær srwledh wkðw wkh Ohp lqjwrg dgg Orqgrq riilfhv p d| farv dw gliihuhqwwp hv/vxenfwwr wkh kdqgryhup hfkdq|p fkrvhq e| wkh R OF1

P dlqwdlq Srwleðw| ri Sduðho Uxqqqlqj gxulqj K dqgryhuwr R OF

Wkh kdqgryhu p rgho fkrvhq e| R OF z kœqrweh nqrz q xqwlop d| eh p lg0533</exw frxqg eh dq| qxp ehu ri yduðqwr ri ðsduðho uxqqqlqj Ñ0 wr p d| p lñ frqwlqjhf| dgg p lq|p lñ uln 0 ru Ælj Edqj Ñ D wkw.lv wðjh z h vkrxqg qrwðnh dq| whsv z klfk frxqg ðp lwkh R OF Ñ ðelðw| wr fkrvðh dgg p sðp hqwwkh idyrxuhg p hwkrq1 Uhwðlqj wkh qhfhvdu| uhvrxufhv dgg idflðwhv iru sduðho uxqqqlqj wkhuhiruh jlyhv lwkh uhtxluhg ich{leðw|1

Orqgrq R iilfh wd| vrshq dwdðwxqwlo G hfhp ehu 533<

Wr ghðyhu wkh 533< vhuylfh ðyhov frqwdlqhg lq wk.lv Sæq/ wkh fðsðflw| ri wkh Orqgrq frp sællqgwkdqgðqj riilfh lv uhtxluhg1 Iurp Mðqxdu| 5343/wkh ixwuh ri wkh Orqgrq riilfh ghshqgv rø wkh fkrvhq kdqgryhu p hwkrq wr wkh R OF /dgg wk.lv fðq røq| eh fæulilhg røfh wkðwghflvtrq lv p dgh nqrz q1 Wkhuhiruh/wr ðfk lhyh wkh shuirup dqfh renfwlyhv iru 533</ wkh Orqgrq riilfh ððh p xw eh h{whqgghg xqwlo G hfhp ehu 533< z lw rssruwq|w| iru ixwkuh h{whqvtrq vxenfwwr uhy|hz iurp p lg0533<1

Dghtxðh uhvrxufhv ðh dyððeðh iurp wkh Oðz Vrfhw|1

Wkh sæq dwxp hv=0

- D exgjhwiruw 5343 z kœeh vhwðwð uhvtrqðeðh ðyhðlq rughu wkðw fðsðflw| dgg shuirup dqfh p d| eh p dlqwdlqhg1
- Dghtxðh fhqwdðuhvrxufhv z kœeh surylqhg wr vxssruw OFV xqwlo farvxuh lq I lqðqfh/ Idflðwhv/ Ohjðvhuylfhv/ IW/ Iqwhuqðo D xglwðqg K U 1
- Q r gluxswlrq ri fruh OFV v| whp vz kowðh sæfh1

;3 (OFV wðii z kowðqvihuwr wkh R OF

Wk.lv lv wkh fxuhqz z runlqj dwxp swlrq ri wkh P rñ/ dgg lqirup v rxu y|hz rø z kðw lv uhtxluhg wr p dlqwdlq rxu fðsðflw| lq 533<1 Ii wk.lv qxp ehu z huð wr gurs z h frxqg h{shfw wðii dwulwtrq wr ulh/ uhtxluqj surðfwlyh p dqðjhp hqwwr p dlqwdlq rxu vhuylfh ðyhov1

OFV lvqrwfrqwdlqhg wr surylgh frp sdwh P lgøggvwdii srroiru wkh ROF

Z klow z h duh nhq wkdw rxu wdii kdyh wkh rrsruwq|w| iru ixwuh hp scr |p hqw z lwk wkh ROF/dqg z dqwr wssruwkh ROF wduwxs krz hyhu z h fdq/z h fdqgrwjxdudqwhh wkdwz h z løqhfhwdulo| kdyh wkh ixøqxp ehu dqg vnlø vhw ri shvzrqgho uhtxling dydløedn lq wkh P lgøggv dwkh kdggryhu wlp h1Wr p dnh wxfk d frp p lwp hqwz rxøg uhtxling xvwr exløg xs qxp ehuv lq wkh P lgøggvwr fryhuwkh wdii wkdwz rxøg qrwuharfdwh iurp rxu Orqgrq riilfh1 Li OFV wdii lqj dydløelw| lveharz wkdw uhtxling e| wkh ROF/wkhq wkh ROF z løqhghg wr fryhuwkh uhfuxlwp hqwdqg wdlqlqj

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R qh skhqrp hqrg durxqg farxuh lv wkdwudlkhg sxedf dz duhghw frxøg fdxvh frqvxp huw wr Ærøg edfn Nfrp sællgw lq dqwiflsdwrq ri wkh ROF +dqg d "63n p d{lp xp dz dug, 1Z h kdyh dwæp hg wkdw wlvz løqrwrffxu gxulqj 533<1 Li d grz qwæuq z huh wr wduw/z h frxøg uhgx fh wlp srudu| wdii lqj ru dwhuqdwlyho| xvhwkh dgg lwirqdbofdsdflw| wr uhgx fh Z IS/dwkrxjk wklv z rxøg dvr uhgx fh hiilflhg f| 1

Ulmv

G xh wr wkh kljk dnyhori xqfhuwllqwl| dw wklv wlp h/wkhuh duh p dq| ulmv wr rxu SR v dgg wklv Sæq/lqfoxg lqj wkh irærz lqj1

- 41 R shq lqj gdw ri ROF p d| eh æthu wkdq 4 D sub 5343/xs wr wkh hqg ri 53431 Wkh farvuh ri OFV frxæg eh hyhq æthulid shulrg risduæhouxqq lqj lv uhtx luhg1
- 51 Dgg lwrq do frqwu dlqwl p d| eh sæfhg rq OFV e| h{wluq do wænhkræghu ru rujdq l d wlrqv
- 61 Dærxjk lqghshqghqwiurp WOV/wkh OFV exgjhwlvxwlp dwo| khæg e| WOV1
- 71 Kljkhu FK FV z run wkdq iruhfdwl
- 81 Kljkhu wdii d wulwlrq wkdq iruhfdw h wshfldæ| Orqgrq, dvghwllav ri OFV farvuh/dgg ROF wæxfwuh/ehfrp hv fchuhul
- 91 Dgg lwrq do uhrxufh uhtx luhg iru ROF kdggryhu suhsduwlrq
:1 lqfuhdng Iuhgrp ri lqirup d wlrq uhtx h wwp d| qhng ixuwku uhrxuf lqj
;1 Orwri Fhqw do Vhuylf h Wdii 2ixqfwlrqv eh iruh w dqv wlrq
<1 WX SH p rghodgg Sd|) Shqvlrqv qhjr w d wlrq frxæg v ljq l ilfdqwl| diihfw w d iilqj frw lq uxq 0xs wr farvuh1
- 431 Kljk dnyhori Sæq lqj D wæp swlrqv
- 441 Ip sdfwri wkh Fuhglw Fuxqfk frxæg uhgxfh dydælelæw| ri frqwlqj hqf| ixqg lqj iurp WOV1

R xudfwlrqv wr p d q djh wkhv ulmv lqfoxgh wkh irærz lqj1

- 41 Z h frqwlqxh wr p rghog l iihulqj ROF yhw lqj gdw wr dærz xvwr sæq dgg iruhfdw yd lrxvrshu d wlrq do p rghv
- 51 Wkh OFV lv fxuhqwl vxehfw wr vfuxwq| e| wkh R iilf h ri wkh Ohjdo Vhuylf h Frp sælqwl Frp p lwrq hu l Iwz kæh xs wr wkh P r Mw ghflgh li wklv lv wr frqwlqxh lq wkh dndg xs wr wkh ROF 1 OFV z kæqhng wr p dlqwdlq idh{lelæw| wr p hhwg l iihulqj wænhkræghu hqhp dggv1
- 61 Wkh qh{w skd h ri wkh FK FV fdqgrw eh d w h w h g xqwl wkh uhrxow ri wkh wldo duh nqrz q æxh hqg ri Q ryhp ehu 533; ,1 Frww frxæg iæfwæd h juhæw| wkhuhiruh z h qhng wr exkæg lq d frqwlqj hqf| dærz d qfh1
- 71 Uhwq wlrq sdfndjh v u | h w w e h g h i l q h g 1 P d q d j h p h q w d q g f d h z r u n h u d w u l w l r q f d q e h l q i x h q f h g e | u h w q w l r q s d f n d j h v l G x u l q j 5 3 3 < d s d f n d j h z k æ e h g h y h a r s h g w r v æ l w w h v s h f l i l f f l u f x p w d q f h w r s u r w h f w n h | l q g l y l q x d o v 1
- 81 Wkh dydælelæw| ri frqwlqj hqf| ixqg lqj kd v e h h q u h t x h w h g i u r p W O V w r f r y h u d w x p s w l r q v v æ v h t x h q w | v k r z q w r e h l q f r u h f w / p d w h u l d d v l q j u l m v d q g r w k h u f k d q j h v l
- 91 Idh{ledh w d i i l q j r s w l r q v 0 d v z h k h d g w r z d u g v 5 3 4 3 l w e h f r p h v k d u g w r m æ w l i | u h f u x l p h q w d v q h z w æ u h u v k d y h l q v i i l f l h q w w l p h w r e h g l q 1 l q w h d g / i u r p M æ q x d u | 5 3 3 < / r s w l r q v w æ f k d v v h f r q g p h q w / i l { h g w h u p f r q w d f w d q g l q f u h d n g r x w r x u f l q j z k æ e h l q y h w l j d w h g 1