



The Law Society

## COUNCIL

The Council will meet at 10.00 on Wednesday 10 February 2010  
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 16 December 2009 Attached
- 5 Matters Arising from the Minutes
- 6 Question Time

#### *Representation*

See Part 2 Agenda

#### *Regulation*

- 7 Report of the Chief Executive of the SRA to the SRA Board Attached

#### *Reports and motions*

- 8 Reports of the Chairs of the Non-Regulatory Boards Attached
  - (i) Membership Board Attached
  - (ii) Regulatory Affairs Board Attached
  - (iii) Management Board\* Attached
  - (iv) Legal Affairs and Policy Board\* Attached
  - (v) Support Services Resolution Board Attached

*\* These are Part 2 reports*

- 9 Chief Executive's report To follow
- 10 Council member motions
- 11
  - (i) Constituency Matters
  - (ii) Other Oral reports

## COUNCIL

### Minutes of the meeting on 16 December 2009 in the Council Chamber at 113 Chancery Lane, London

#### PART 1

- Present** Robert Heslett (President)  
Linda Lee (Vice-President)  
John Wotton (Deputy Vice-President)
- Peter Adams, Robin ap Cynan, Adrian Barham, Paul Barnes, Richard Barnett, Christina Blacklaws, John Bleasdale, David Bott, Grace Brass, Louise Brough, Roger Buston, John Calladine, Denis Cameron, Andrew Caplen, Sue Carter, Sara Chandler, Christopher Clark, Helen Clarke, Helen Davies, Paul Davies, Nigel Day, Laura Devine, David Dixon, Nigel Dodds, Joe Egan, Keith Etherington, Tom Flanagan, Nicholas Fluck, Jeffrey Forrest, Michael Franks, Derek French, Michael Garson, Jennifer Gracie, David Greene, Nicholas Gurney-Champion, Philip Hamer, Wendy Hewstone, Andrew Holroyd, Brian Hughes, Ian Kelcey, Angus King, Carolyn Kirby, Ian Lithman, Patricia Lush, Paul Marsh, Kevin Martin, Clare McConnell, David McIntosh, Maria Memoli, David Merkel, Rod Mole, David Morgan, Tim Mutti, Nwabueze Nwokolo, Tim O'Sullivan, Fleur Palmer, Penny Palmer, Michelle Penn, John Pickup, Basil Preuveneers, Alan Radford, Patrick Richards, Lucy Scott-Moncrieff, Razi Shah, Michael Singleton, Jonathan Smithers, Anna Sutcliffe, David Taylor, Andrew Tucker, Rodney Warren, John Weaver, Chris Welton, Fraser Whitehead, Paul Widdup, Michael Williams, Stanley Williams, Gaynor Wragg, Peter Wright.
- In attendance** Desmond Hudson, Chief Executive of the Law Society
- By invitation** Peter Williamson, Chair of the Solicitors Regulation Authority Board (minute 63)  
Antony Townsend, Chief Executive, Solicitors Regulation Authority (minute 63)
- Apologies** Richard Barr, Rajshree Chhatrisha, Stuart Collingham, George Curran, Simon Davis, Malcolm Fowler, Joy Merriam, Sue Nelson, Jonathan Stephens, Beth Wanono, Michael Webster.

#### 59 ANNOUNCEMENTS

The President welcomed Tom Flanagan, the new Council member for the Employment Lawyers' Association, to the meeting.

#### 60 MINUTES OF THE MEETING ON 4 NOVEMBER 2009

The Council approved the Part 1 minutes of the meeting on 4 November 2009 subject to amendment of Minute 40: Constituency update: Credit Card charges on PC payments to read:

Flick  
Heron

'Nigel Dodds, Northumbria constituency, raised the issue of charges associated with credit card payments for the PC fee which the SRA passed on to practitioners. He suggested that the Society should absorb the charges of unemployed/impoverished members by concession. Des Hudson advised that the Society had not been notified in advance by the SRA of the adoption of this method of payment and that the situation was complex as if every member paid by credit card it would cost in excess of £5 million.'

**61 MATTERS ARISING**

(i) Law Society Charity

Nigel Dodds referred to a letter he had received from Des Hudson on the administrative support for the Law Society Charity.

Des Hudson said that in view of advice the Society had received that the tax relief on contributions made by the Society to the Charity was creating a tax liability for the Society and on the indirect subsidy that the Society made to the Charity annually, he was minded to make a decision on the future of administrative support for the Society Charity and was seeking the Charity's views.

Later in the meeting, Nigel Dodds confirmed that he had discussed the issues with Des Hudson and agreed that no action would be taken for a period of 90 days while discussions took place.

(ii) Community Legal Advice Centres and Networks

The Chief Executive had undertaken, at the last meeting, to circulate an update on CLACs. Des Hudson said that there had been further developments since then and a note would be circulated to Council.

Becky  
West

**62 QUESTION TIME**

There were no questions.

**63 REPORT OF THE CHAIR OF THE SOLICITORS REGULATION AUTHORITY BOARD**

Peter Williamson reported on recent activities for the SRA which included:

- changes to the rules and policy regarding registered foreign lawyers;
- discussions on principles-based regulation;
- continued implementation of the LSA 2007.

Peter Williamson responded to questions from Council members as follows:

- The initial consultation on the fairer fees proposals had been undertaken jointly with TLS and the SRA was still working with TLS to a common purpose, although the following

consultation, which took into account responses from the first consultation, was being taken forward by the SRA alone.

- The SRA's Rules and Ethics Committee had agreed to expand the guidance to Rule 9 to address common problems of interpretation among the profession.
- He would provide a written response regarding variations to training contracts sought by firms and the number of monitoring visits annually in respect of training contracts.

Antony  
Townsend

This was Peter Williamson's last Council meeting as Chair of the SRA. The President, on behalf of the Council, thanked Peter Williamson for his time on the Council, as President and as Chair of the SRA Board and for his commitment as a loyal public servant. Peter Williamson thanked the Council members for their support over the years.

The Council noted the report.

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#### **QUORUM OF LCS AND INTERIM JOINT RESOLUTION BOARDS**

The Treasurer presented a paper which invited the Council to approve amendments to the General Regulations (annexed to the paper) to:

- (1) provide a new quorum for the Legal Complaints Service Board to apply from 1 January 2010, when the Board is reduced in size; and
- (2) deal with the issue of the quorum of the Interim Joint Resolution Board, which had been omitted when the Board was established at the November Council meeting. This provision would also take effect on 1 January 2010, when the Board would be formally established.

The Council approved the amendments by the requisite two-thirds majority.

Mark  
Paulson

For: 66; Against: 3; Abstentions: 3

65

#### **REPORT OF THE LAW SOCIETY CHIEF EXECUTIVE**

The Council noted the Chief Executive's report on the work being undertaken by the Society to support solicitors since the previous Council meeting. There was an error in the fifth paragraph on page 14 of the report wherein the reference to the 'City Equality and Diversity Forum' should have read 'Firms Diversity Forum'.

Des Hudson responded to members' queries as follows:

- he would consider ways to bring his regular reports to the attention of the profession, such as publication on the website and highlighting issues via Professional Update;

Des  
Hudson

- the Society had not been invited to participate in the Bar's Manifesto for Justice until late in its development and had not signed it, but would publicly support it; a Solicitors Manifesto would be on the agenda for the next Council meeting and, if agreed, would be used to promote the profession's interests to the main political parties in the run up to the general election;
- MoJ proposals to cap damages-based agreements for employment matters at 25% of damages would reduce access to justice, as firms would be forced to charge hourly rates which many clients would not be able to afford, and the proposals should be resisted;
- input from committees regarding services which could be offered to private clients in Europe would be welcome;
- there were no plans to absorb training resources offered by groups and sections into the CPD centre; where an overlap was likely the Society would liaise with the group or section concerned;
- the Director of Legal Policy would ensure that a response to the LSC's consultation on quality assurance for advocates was prepared in time, with the input of the working group and the Legal Affairs and Policy Board. The Society was discussing its concerns over the proposals with other approved regulators, including disproportionality and the inappropriate role taken by the LSB;
- the government was pressing ahead with virtual courts in an effort to save costs; the right of a defendant to refuse a virtual hearing had been removed and discretion now rested with the police;
- discussions were ongoing with the Land Registry (LR) regarding the early completion rules and system changes by the LR which would place more liability on solicitors;
- there were no plans to consider, in 2010, the implications of the Society, as approved regulator, being liable for any failure by the SRA to comply with the Legal Services Act;
- the judicial appointments workshop had followed from work with the Black Solicitors' Network, the BME Forum and the Judicial Appointments Commission and was intended to promote interest among BME solicitors in applying for judicial posts and to increase their chances of success. More workshops would be run in 2010, subject to resources and interest from BME solicitors. The success of the attendees in applying for judicial posts would be monitored. A diversity breakdown of applicants for the workshop and those chosen to attend would be supplied;

- the Society was concerned about the LSC's lack of clarity on its strategy for Community Legal Advice Centres and Networks, which was threatening not-for-profit legal advice centres as well as commercial practices;
- the Society was trying to establish a support system for solicitors seeking judicial posts, similar to that provided by the Bar for barristers, and believed social contact with solicitor judges through informal meetings would be useful; prioritisation of limited resources would not allow more formal meetings or dinners to be arranged.
- the role of senior relationship manager for the top 100 firms was justified as it was equivalent to the regional managers and the firms employed 43% of the profession.

66

## REPORT OF THE CHAIR OF THE MEMBERSHIP BOARD

The Council noted the report on matters discussed at the Board's 19 November meeting, including electronic communications with constituents; sections and divisions; the Law Society Gazette Editorial Advisory Board; support for members facing regulatory action; Gazette circulation; Fellowship of the Law Society; transfer of accreditation panels; relationships with local law societies; the excellence awards; promotion and protection of the Law Society's Brand; and judicial appointments.

Kevin Martin gave the following responses to points raised by Council members:

- Clarification on the review of the Sections and Divisions would be provided after the next Board meeting; the Sections and Divisions would be involved in the review.
- The Membership Board would lead the Blueprint project, with consultees including the other Boards and the sections and divisions, although there had not yet been any meeting of the consultation group. A feasibility study and outline business case for the project would be completed by the end of the year.
- A timescale for research into ways the Society could support members facing regulatory action would be provided after the Board meeting in January;
- The Board had rejected proposals for a fellowship scheme on the basis of a brief paper but Kevin Martin hoped there would be further debates on the matter as it was important to promote professional excellence and career progression for those unable to become associates or partners;
- The Board would consider whether a back bench Council member should be invited to join the Society Gazette Editorial Advisory Board;

- Consideration would be given to consulting local law societies on items for the agenda of the Presidents and Secretaries Conference.

The Chief Executive reminded members that the Society allowed each local law society one free list rental per year of the Society's membership, with further rentals at a subsidised rate. This could be included in the memorandum of understanding on the relationship with local law societies, to raise awareness.

Council members who had commented on the Board's report were encouraged to email their points to Kevin Martin.

**67 REPORT OF THE CHAIR OF THE REGULATORY AFFAIRS BOARD**

The Council noted the report on matters discussed at the Board's 12 November meeting, including the Hunt Review of Legal Regulation; Office for Legal Complaints Scheme Rules; Alternative Business Structures; the Compensation Fund; the SRA consultation on Handling Complaints about the SRA; the standard of proof in solicitors disciplinary proceedings; the regulatory performance survey; and education and training.

Helen Davies gave the following responses to points raised by Council members:

- The Board would be considering referral fees in January, which would enable a response to the LSB Consumer Panel's call for evidence, and the views of interested Committees would be sought;
- The main work of the Board's Rules and Ethics Committee was ABS and this would be included in the Board's next report.

**68 COUNCIL MEMBER MOTIONS**

There were no motions.

**69 CONSTITUTENCY UPDATE**

Welsh Assembly Counsel General

The President announced that John Griffiths, a solicitor, had been appointed as Counsel General to the Welsh Assembly Government.

Judicial Reviews of the LCS

Nigel Day drew attention to a recent judicial review brought successfully by a constituent against the LCS, with costs awarded against the LCS, and asked whether the Society had intervened or considered intervening in the case. The Chief Executive responded that casework litigation had been delegated to the LCS, although they were expected to alert the Society to any issues where a reputational risk arose. In the case in question, the Society's Legal

Advisers had been alerted to the case but did not consider it necessary to intervene.

Communicating Concerns

The President invited Council members to share their constituents' concerns with colleagues.

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**OTHER ORAL REPORTS**

Stephen Brooker

Stephen Brooker, Chair of the Audit Committee, delivered a valedictory address to the Council on his retirement from the post, thanking the Council for the opportunity to serve and congratulating the Society on the fact that it had now had a model of what an independent Audit Committee should be. The financial systems and governance procedures of the Society were infinitely better than they had been, but the Council also needed, in his opinion, to address the issue of restoring lay membership to the Council.

On behalf of the Council, the President thanked Stephen Brooker for his work, and wished him well in his new role as Chair of the Audit Committee of the House of Commons. This was endorsed by the Council with acclamation.

Signed: .....  
Robert Heslett, President

Date: .....

**SRA BOARD**  
15 January 2010

**CLASSIFICATION – PUBLIC**



**Chief Executive's report**  
**PUBLIC**

**1. Introduction**

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**

The Board is asked to note the report.

**3. Setting the standards**

**Ethics Policy**

**Legal Services Act 2007**

The process of implementing the changes made by the Legal Services Act (LSA) continues.

A unit to co-ordinate the implementation of firm-based regulation, the regulation of the corporate sector, ABS, and principle-based regulation is being established. The new head of this unit, Samantha Barrass started on 23<sup>rd</sup> November.

We are currently working on the following in relation to outcomes-focused regulation (OFR):

- Regulatory requirements - re-drafting the Code of Conduct to focus on developing our "core principles", define intended outcomes for firms and remove restrictive rules.
- Engagement with the profession - finalising a discussion paper to explain the concept of OFR and how firms will be impacted by the transition to OFR;
- Supervision of firms - developing a new approach to supervising firms, including firm visits, which will be piloted in Q1 2010;
- Staff workshops - to help staff understand OFR and determine the implications of OFR for their business units. The first of these was held on 30 November.

## **SRA BOARD**

### **15 January 2010**

A definitive rule on informing clients of their rights to challenge a bill was approved by the Board in November. The new Statutory Trust Rules were also approved. In the light of the Legal Services Act, the Board amended the SRA's criteria for approving a foreign legal profession for registration of its members as registered foreign lawyers, so that a profession regulated as a profession of lawyers can now be approved even if it lacks a substantial element of self-regulation.

Other elements still to be put in place are the new Disciplinary Procedures Rules, and a new scale of fees for the cost of investigations.

Consultation is now taking place on a new structure for individual and firm-based fees and contributions, which will operate from 1 November 2010.

We have liaised with the Ministry of Justice over the drafting of the latest Commencement Order under the LSA.

We continue to work with other approved regulators in matters of mutual interest arising out of the LSA.

#### **The Solicitors' Code of Conduct**

Following discussions with the City of London Law Society (CLLS) and an exchange with the LSB it has been decided to proceed with the amendments to rules 3 (conflicts of interest) and 4 (confidentiality and disclosure). A consultation is now up on the website attaching draft rules and guidance. An 8 week consultation period has been agreed with the Law Society on the basis that an earlier consultation examined the risks relating to the changes. The proposals driving the changes were put forward by the CLLS on the basis that the rules are overly restrictive in relation to the needs of sophisticated clients. The amendments will provide an early and useful test as to how the principle relating to acting in the best interests of clients might apply in an area which is currently strictly regulated.

#### **Accounts Rules**

The Financial Assurance Reference Group met on 13 November 2009 to discuss the issues relating to the accounts rules review and the financial stability of firms. Work is now proceeding on draft changes to the accounts rules for discussion at the second meeting of the Group on 18 January 2010. An internal workshop has explored the role of the SRA in relation to financial stability, and research is being undertaken on the approach of other regulators to this issue.

#### **Framework Services Directive**

The SRA completed its work on implementing the Directive by the implementation date of 28 December 2009. Some further follow up work will continue into 2010. The SRA has raised awareness within the profession of the requirements placed upon lawyers by the Directive / the implementing legislation and has offered assistance to the Law Society in preparing a Practice Note in this respect.

**SRA BOARD**  
**15 January 2010****Liaison with Ministry of Justice - claims management regulation**

We continue to work closely with the MoJ and other regulators and organisations on a variety of matters including our drive to ensure that consumers avoid becoming victims of fraud, and are not misled by false claims as to their chances of having debts written off. We are reviewing with the MoJ the implications of the recent decision of the Supreme Court concerning bank charges, and of the cases recently decided in the High Court in Manchester concerning credit agreements. We are investigating some firms of solicitors where we have concerns

**Liaison with Office of the Immigration Services Commissioner**

We have met officials from OISC to discuss difficult issues concerning the supervision of immigration services and the circumstances in which OISC and the SRA regulate a particular organisation or individual. We have drafted some further guidance for OISC to consider.

**Damages-based agreements in employment matters**

Following its recent consultation (to which the SRA responded), legislation has been introduced which allows the government to regulate damages-based agreements (contingency fees) in employment matters. The government is now undertaking a consultation on the terms of the draft regulations - "The Damages-Based Agreements Regulations 2010". The government wants to ensure that these regulations come into force before the general election, and this has meant that there has been a very brief (four weeks, including the Christmas/New Year break) consultation period which ends on 8 January. In formulating our response to this consultation, the office is liaising (as it did with the earlier consultation) with the LSB, MoJ (Claims Management Regulator), the LCS and the Law Society.

**Citizens Advice's recent report concerning oppressive tactics taken by some retailers against people accused of theft**

We reviewed Citizens Advice's draft report and explained the principles of conduct which apply to solicitors who act for creditors. This advice was reflected in the final report.

**UK Government/ China – Human Rights Dialogues**

We have been working with government officials from Ministry of Justice and the Foreign and Commonwealth Office in preparing materials for the next round of these regular Dialogues with the Chinese government, the aim of which is to promote human rights. This Dialogue (which had been scheduled for the week commencing 11 January 2010) was due to cover issues including the regulation of the legal professions in the UK and the professional obligations of lawyers. The Chinese government postponed the Dialogue following the execution of a British citizen.

**Supporting the work of Lord Justice Jackson**

We have responded to requests from Lord Justice Jackson's office for comments on issues which have arisen in connection with his report on costs in civil proceedings, due to be published on 14 January.

## **SRA BOARD**

### **15 January 2010**

#### **Supporting Education and Training Unit in designing amendments to regulations**

We have provided advice and assistance in designing appropriate amendments to the transitional arrangements to the Solicitors' Higher Rights of Audience Qualification Regulations [2010]

#### **Education and Training Unit**

##### **Validation and Monitoring Team**

During November and December 2009, the Validation & Monitoring Team processed 14 applications from prospective external CPD providers and 71 new in-house/renewal CPD applications. There were 49 CPD and PSC routine monitoring activities.

Twelve LPC authorisation and validation events took place at venues in London, Leeds and Liverpool.

The new Handbook for assessment providers of the Higher Rights of Audience qualification was sent to existing HRA providers and placed on the SRA website. Authorisation events will take place in early February 2010.

##### **Training Contracts Team**

During November and December 2009, the Training Contracts Team received 156 training contract applications and completed 163. A hundred and forty-four applications were considered under delegated powers and the remainder were referred for adjudication. The majority of the applications were from firms applying for a variation of the training contract requirements.

Also during this time, 30 monitoring of training contract visits took place and 19 training establishments were selected for monitoring.

##### **Policy Team**

##### **Update on key projects**

###### *Work based learning (WBL) project*

The project to pilot a new approach to the assessment of trainees during their period of experience in practice (which, if implemented, will replace the current training contract arrangements) was launched in September 2008, with a second part-time cohort commencing in September 2009.

Monitoring reports on participating firms, and the interim report of Middlesex University (independent evaluation consultants for the project) have been received (November / December 2009) and have been largely positive. Stakeholder engagement and communication activities started in September 2009 to inform stakeholders and gather feedback.

The interim evaluation report was considered by the Education and Training Committee (ETC) in November 2009. One of the key issues highlighted by the monitoring reports, employer assessment of WBL, this has already been addressed through workshops

## SRA BOARD

### 15 January 2010

held in December 2009. Key milestones for the project in 2009/2010 and progress against the milestones are detailed below.

<b>Milestone</b>	<b>Target date</b>	<b>Progress</b>
Evaluation consultant delivers interim report  Monitors deliver reports  Employer assessment workshops	November 2009	Achieved
Scoping of next tranche of evaluation work	February 2010	In progress
Communications and stakeholder engagement	Sept 2010 – April 2010	In progress

#### *Professional Responsibilities Test*

The aim of this project is to pilot a new test of professional responsibilities (PRT) which, if implemented, would be undertaken by all entrants to the profession prior to qualification. In November 2009 the Education and Training Committee decided that any future work on redevelopment or replacement of the Professional Skills Course should be informed by the WBL pilot and by review of the qualification process as a whole in the context of the Day One Outcomes. For this reason, substantive work would be deferred to reflect the timescales of that work. Key milestones for the project in 2009/2010 and progress against the milestones are detailed below.

<b>Milestone</b>	<b>Target date</b>	<b>Progress</b>
ETC to agree scope and direction of project.	November 2009	ETC considered scope and direction of the project and agreed to defer work on the PRT to reflect timescales of other work.
ETC to review in context of results of WBL pilot and review of the qualification process as a whole in the context of the Day One Outcomes. Agree direction for further work.	November/December 2010	PRT issues are being recorded and considered as part of the WBL project

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#### *Qualified Lawyers Transfer Regulations Review*

Proposals to reform the arrangements for lawyers qualifying from other jurisdictions were developed by a Working Group, including members of the Education and Training Committee, in 2008/9. Key milestones for the project in 2009/2010 and progress against the milestones are detailed below:

<b>Milestone</b>	<b>Target date</b>	<b>Progress</b>
ETC agree proposals, comment on summary of consultation responses and Equality Impact Assessment (EIA)	23 July 2009	Completed
SRA Board agree proposals and publication of summary of consultation responses and EIA	10 September 2009	Completed
ETC and SRA Board approve new regulations	October-December 2009	Completed
Regulations sent to LSB for approval	January 2010	Initial meeting with LSB held in December 2009
Implementation date	From September 2010	

#### *Higher Rights of Audience*

This project will introduce a new assessment regime for solicitors wishing to exercise rights of audience in the higher courts. Key milestones for the project in 2009/2010 and progress against the milestones are detailed below:

<b>Milestone</b>	<b>Target date</b>	<b>progress</b>
Submission of regulations to Ministry of Justice (MoJ)	27 April 2009	Achieved
SRA Board approval of application to MoJ to extend current exemption/accreditation routes	10 September 2009	Achieved
Submission of application for extension of current exemption/accreditation routes	18 September 2009	Achieved and approval received from MoJ
Formal approval of schedule 4 application	31 December 2010	Initial recommendation of new regulations received from MoJ. This is subject to continued joint working with the BSB. The application, together with an application for minor amendments to the transitional

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### 15 January 2010

		arrangements, is currently with the designated judges for approval.
Assessment organisations prepare assessments for validation	January 2010	In progress
Validation of assessment organisations	January/February 2010	In progress
Implementation date	1 April 2010	

#### *Quality & Standards Framework*

This project aims to develop a strategic framework for assuring the quality of legal services through an effective education and training regime for solicitors post qualification. The key milestones for the project are detailed below:

<b>Milestone</b>	<b>Target date</b>	<b>progress</b>
Publication of SRA's 'Agenda for Quality' discussion document	June 2009	Completed
Analyse responses to 'Agenda for Quality'	End September 2009	Completed
'Quality, Values, Standards – the future legal landscape' Conference, Warwick, 29 October	29 October	Completed
Develop a series of position/proposition papers on each topic	November 2009	In progress – to be informed by responses to 'Agenda for Quality'
Draft role descriptions and Professional Standards Framework submitted by consultant	January 2010	
Formal consultation on proposals	Early 2010	

Discussions are currently taking place with the Director of Corporate Regulation to ensure that this project is aligned with the SRA's broader corporate regulation agenda.

#### Caseworking and Operations Policy Team

During the 2009 student enrolment exercise the Caseworking and Operations Policy team have made 555 office delegated power decisions in cases where a character and suitability issue existed. Of these 411 were approved and 144 were refused. The adjudicators have considered 38 first instance character and suitability matters and approved 21, refused 16 and deferred 1.

The COP team are currently dealing with applications for review of the first instance decision to refuse student enrolment. During January to March 2010, 9 days of review interviews have been scheduled so far.

## **SRA BOARD**

### **15 January 2010**

#### **Ethics Guidance**

##### **Guidance helpline**

During the month of December the guidance team answered 3804 calls. 87% of calls were answered within a 45 second service level with an abandonment rate of 3%. These figures compare well with end of year figures for 2008 showing an increase in calls received and answered in December 2009, together with a shorter waiting time for callers.

The top 5 issues raised on the helpline were:

1. Confidentiality
2. Practising certificates
3. Retainer
4. Accounts Rules
5. Publicity

##### **Written Correspondence/guidance**

401 letters were received during the month of December with 97% of those receiving a substantive answer within the 10 day service level.

The top 5 issues raised in correspondence were:

1. Practising certificates
2. Publicity
3. Accounts rules
4. Confidentiality
5. Referrals of business

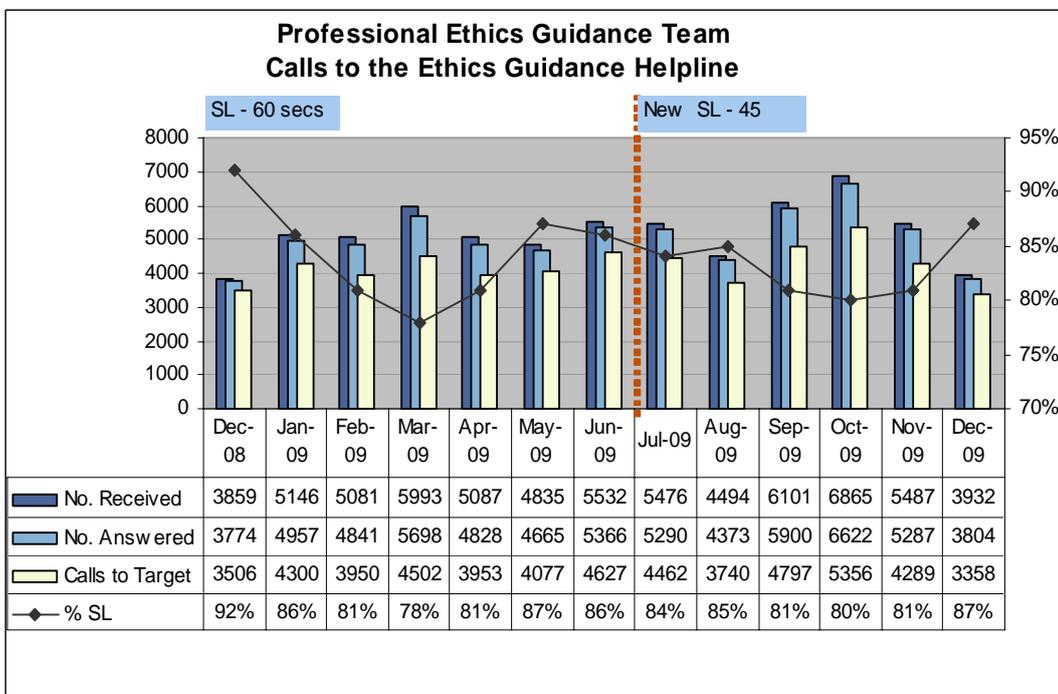
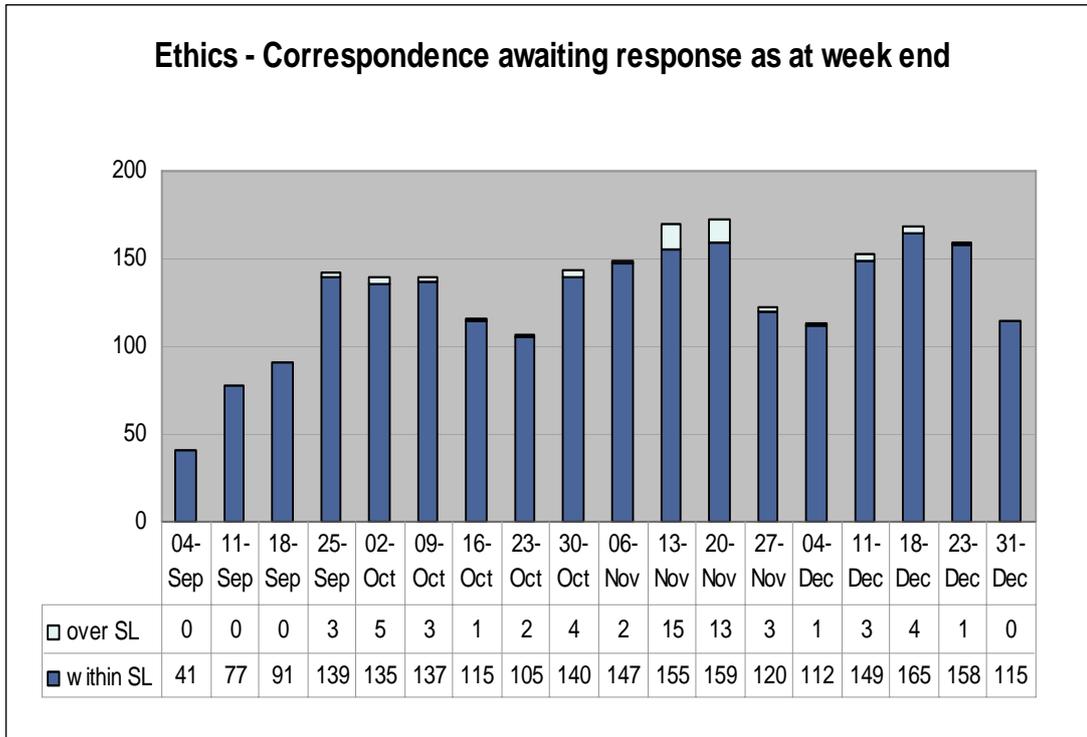
##### **Authorisations under SAR 1998**

During December, 50 applications for authorisations under the SAR were processed with 98% of those receiving a substantive reply within the 30 day service level.

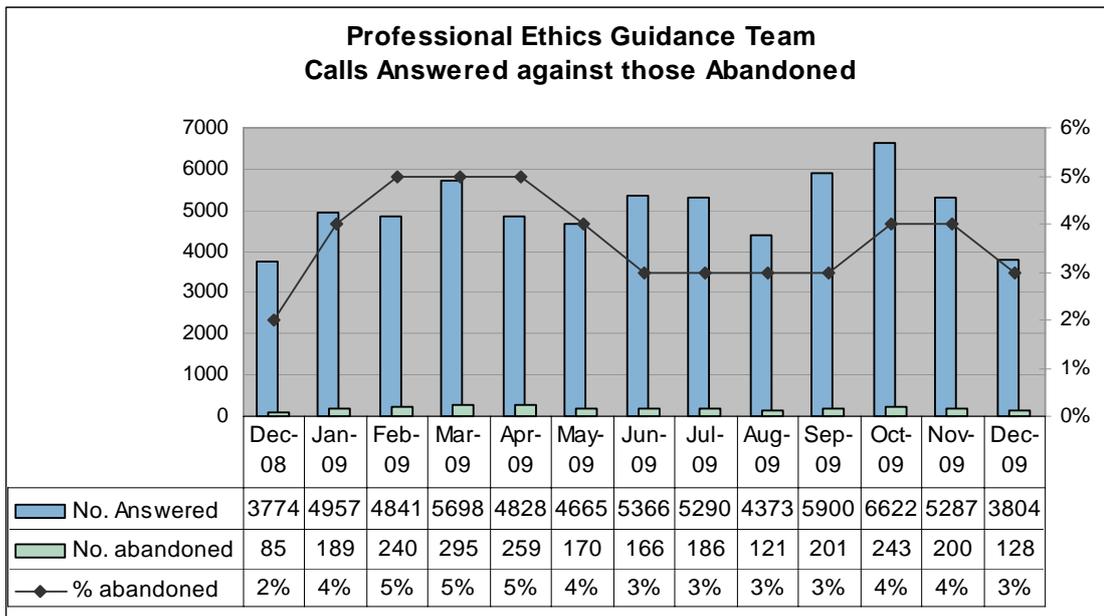
##### **Road shows**

Senior members of the team continued to attend road shows to promote the work of the Ethics Guidance Service. Further feedback from the profession during these road shows was positive with a particular appreciation of the practical help offered by Ethics Guidance.

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**SRA BOARD**  
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**4. Consumer protection, enforcement and discipline**

**Practice Standards Unit**

Work is currently underway to begin scheduling the ARP visits from February 2010 and to look at the possibility of PSU supporting desk based investigations where required.

The programme of visits to firms with referral arrangements are on track to be completed by the end of January 2010 as planned.

PSU are continuing to work with the Standards Directorate to define the talk programme for 2010 (c.66 talks) on common compliance issues/breaches and to look at how we can maximise resources when visiting a firm authorised to take trainee solicitors, as opposed to always having to have a separate training monitoring visit.

Workshops are scheduled to begin on 8th January to look at how PSU needs to adapt its working practices and visits to outcomes focused regulation.

**5. Policy (Inclusion) Unit - Equality and Diversity**

*Equality Impact Assessment (EIA)*

The following EIAs have been published

- complaints Handling Policy
- Policies within Claims management and
- Indemnity Insurance have been published

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*Meeting with Key equality groups representatives to ARP Working Group Meeting*

A meeting was held in London on the 15<sup>th</sup> December

*Staff Survey*

The staff survey launched on 23 November has had 387 completes (66%) #

*Training*

The directorate organised and delivered training on

- Equality and Diversity – basics session for some staff members in the case work and applications unit – a further session is being held in February.  
Equality Impact Assessments for some staff across the SRA

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**Author:** Antony Townsend, Chief Executive, SRA

**Date:** 8 January 2010



The Law Society  
Item 8 (i)

**COUNCIL**  
**10 February 2010**

**Classification – Public**

**Purpose – For noting**

**REPORT OF THE CHAIR OF THE MEMBERSHIP BOARD**

**The Issues**

This is the report of the Chair of the Membership Board highlighting issues which the Board considered at its meeting on 19 January 2010.

**Remit**

The Board's terms of reference are:

*(1) To set and oversee the implementation of policy for managing relationships with the profession, including (but not limited to) local law societies, Law Society groups, associations, sections, networks and divisions. (2) To set and oversee the implementation of policy relating to services for members and others to include, but not be limited to, family members, potential entrants to the profession, non-solicitor employees of firms and to the public. (3) To set and oversee the implementation of policy to support Council members in their work.*

**Financial and Resource implications**

None arising directly from this paper.

**Equality and Diversity implications**

None arising directly from this paper.

**Consultation**

This report has been prepared for the Council directly.

**Author** Kevin Martin, Chair of the Membership Board  
**Date of report** 28 January 2010

A summary of the main issues and the matters discussed by the Board is set out below.

### **Blueprint Project**

1. Blueprint is a major project which aims to clarify and define the Law Society's role, operating model and customer offer in the future. It is an exciting project, and Board members were pleased to participate in a two hour workshop with the external consultants, *Gracechurch*, on 19 January. They have been working with Law Society members to gain a good understanding of our fundamental features and services, and models for the future. We were invited to consider members' current experiences of the Society and what the Society could offer them in the future to support them throughout their careers. It was particularly interesting to see where members' views and our views, from the perspective of Council members, differed.
2. Council members generally have not yet had the opportunity to engage with Blueprint and to that extent it may be difficult for members to have a feel for what the project looks like and where it might lead to: the project is still at a formative stage but a draft report is being prepared and there will be opportunity for Council members to engage further: any decisions that arise from the project requiring constitutional change will be put to Council.
3. We discussed a specific aspect of membership engagement, the Sections, Groups and Divisions model. Our view is that we need to review our current channels to ensure that our membership engagement model is consistent and appropriate for the future, but change must flow from the Blueprint project as part of an overall strategy for developing and delivering member services and member engagement. It is unlikely that any significant changes to the current structure could be proposed before 2011 and a substantial notice period will be necessary before any significant changes could be implemented.
4. We were pleased to hear that the Society and the SRA are working closely together so that group-wide benefits and customer offer can be achieved from the SRA Enabling Programme and TLS Blueprint.

### **Fellowship of the Law Society**

5. We briefly discussed the idea of a Fellowship category of membership. There are clearly mixed and strong views among Council members, and the Board is aware that the Council wishes to see the arguments for and against the proposal set out fully.
6. We will discuss this again at our next meeting, and a paper has been requested setting out when it will be appropriate to examine this issue more fully in the context of the Blueprint. We will present our recommendations to the Council meeting on 24 March.

### **Gazette Editorial Advisory Board**

7. The *Gazette* Editorial Advisory Board's primary function is to ensure that the Editor-in-Chief effectively and correctly applies the Editorial Policy and to identify and recommend improvements. The Advisory Board will review the content of recently published editions of the *Gazette* and its associated website and provide guidance, advice, insight and feedback using the Editorial Policy as its principle reference point in this regard.

8. The Advisory Board is expected to review the editorial policy in context. In particular the Board should take into consideration issue size constraints and staff resources which may determine the extent of coverage and restrict the editor's opportunities to run certain content types or particular stories.
9. Maria Memoli is the Membership Board's representative on the new Board. An advert for two external members was placed in the *Gazette* on 14 January and subsequently in the online edition, and has been circulated to the BME Forum. The closing date for applications will be 12 February, and we expect that the Board will meet for the first time in the last week of March.
10. The *Gazette* Editor-in-Chief will submit a report ahead of each Board meeting. The Board will report directly to the Membership Board.

#### **Relationship with local law societies**

11. We discussed a draft Memorandum of Understanding which seeks to clarify the relationship between TLS and local law societies. The Board authorised further work to refine the MoU prior to it being shared with local law societies, and we will be considering a further version at our next meeting.

#### **Interim Accreditation Schemes Board**

12. The Interim Accreditation Schemes Board held its first meeting on 1 December 2009, when a governance structure for accreditation schemes was agreed. The Board will focus initially on immigration re-accreditation and the recruitment of Chief Assessors, and it is intended that by the time of the February Council meeting an advert will have appeared in the *Gazette* for chief assessors for the following schemes:

Immigration and asylum  
Criminal litigation  
Family law  
Children panel  
Mental health tribunal

#### **Next meeting**

13. The Board will meet on 4 March.



The Law Society

**COUNCIL**  
**10 February 2010**

**Item 8 (ii)**

**Classification – Public**

**Purpose – For noting**

## **REPORT OF THE CHAIR OF THE REGULATORY AFFAIRS BOARD**

### **The Issues**

This is the report of the Chair of the Regulatory Affairs Board.

### **Policy Position**

Not applicable.

### **Financial and Resource implications**

None arising directly from this paper.

### **Equality and Diversity implications**

None arising directly from this paper.

### **Consultation**

This report has been prepared for the Council directly.

**Author** Helen Davies, Chair of the Regulatory Affairs Board  
**Date of report** 26 January 2010

1. The Regulatory Affairs Board met on 21 January, and the Board welcomed a number of Council Members as observers, the visiting Commonwealth Fellows for part of the meeting, and Chris Kenny, Chief Executive of the Legal Services Board.

### **The Legal Services Board**

2. Chris Kenny joined the meeting for almost one and a half hours. He presented on the Board's work, and then spent about an hour responding to questions and discussion points raised by Board Members. A copy of his power point presentation is available on Corporate Business at [http://www.lawsociety.org.uk/secure/meeting/183753/08.2\\_annex\\_LS\\_Board\\_Presentation\\_by\\_Chris\\_Kenny.pdf](http://www.lawsociety.org.uk/secure/meeting/183753/08.2_annex_LS_Board_Presentation_by_Chris_Kenny.pdf) (link usable from within Corporate Business).
3. Much of the discussion centred around the LSB's work on outcomes based regulation and the timescale, which he described as "deliberately challenging but not break neck speed". Members expressed their very real concerns about the feasibility of achieving an effective move to outcomes based regulation in the timescale proposed.
4. In response to questions on the LSB's view of the difference between principles based regulation and outcomes focused regulation, he was categorical in his response. This was to the effect that he uses the terms "interchangeably" and that to his mind they implied the same approach to regulation.
5. The Board approved a draft response to the LSB Business Plan 2010/11, and a draft response to the LSB consultation on "ABS: Approaches to Licensing", the discussion informed by the December Council debate. Comments from the Access to Justice Committee were yet to be added in, and the draft response is before Council.

### **Hunt and Smedley**

6. The Board received an up-date on the progress on work on recommendations in the Hunt Report.
7. It considered a report on the presidential reference group, drawing in membership from a wide spectrum of the profession and the SRA, on influencing policy on Hunt and Smedley, and took a first look at a draft model of supervision being developed by TLS, that might be used for "lower risk firms".
8. The Board considered the SRA's draft consultation (which had in fact been issued on 20 January late in the day) on outcomes focused regulation. Outcomes focused regulation, previously described as "principles based regulation" is a major driver of the LSB work plan, and a recommendation from Hunt, and the SRA plan to introduce outcomes focused regulation along with a new Code of Conduct alongside the introduction of ABS in 2011.
9. The SRA consultation paper attempts to describe the very different approach that would be taken, moving away from detailed prescription as to the method of compliance with regulatory principles in many cases, but rather specifying

the regulatory outcome to be achieved, alongside guidance, and giving firms greater freedom and flexibility to achieve the regulatory outcomes in the way they want. Such an approach could deliver real benefits for the profession, and permit innovation, but would require a very different approach both from the regulator and also the profession, and in discussion the Board had very grave reservations about the timetable.

## **ABS**

10. In addition to the draft response to the LSB consultation on ABS licensing, the Board had a first discussion on the separate business rule and its application to ABS, concluding that the issue merited further discussion; received a report on the commissioning of research into the impact of ABS and access to justice following the Council's December decision; and compensation fund and assigned risk pool arrangements for ABS.

## **Conflicts and Confidentiality**

11. The Board approved a draft response to the SRA consultation on the rules on conflict and confidentiality.

## **Professional Indemnity Insurance**

12. The Board approved draft responses to the SRA consultations on the assigned risks pool and successor practice rules, and a reiteration of the Society's holistic strategy on professional indemnity insurance, emphasising the importance to both the public and the profession of considering the issues in the round, rather than picking off single issues.

## **Practice Notes**

13. The Board considered a practice note on supervision, which would come back to the Board for final approval, and approved a practice note on the Provision of Services Regulations 2009.

## **Managing numbers seeking entry to the profession**

14. The Board noted progress on the various initiatives (included in the last RAB Report to Council) on managing numbers and expectations of those seeking entry to the profession. In particular, the Board noted the work being carried out by the Bar Standards Board on a proposed aptitude test which is to be piloted shortly and which might be applicable to solicitors.

## **RAB Membership**

15. As has previously been reported to Council, the Board had identified, some considerable time ago, the lack of expertise relating to equality and diversity matters.
16. The Board has approved the co-option of Ms Susie Uppal to the Board. Susie started her career in private practice then moved into regulation, and is the Director of Legal Enforcement at the Equality and Human Rights Commission. The Board looks forward to working with her.



# **Presentation to Law Society Regulatory Affairs Board 21 January 2010**

**Chris Kenny**

**Chief Executive**

## Agenda

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- **Key milestones**
- **Vision for 2013**
- **Priorities for 2010/11**
- **Possible Issues for Discussion**
  - **ABS**
  - **Referral arrangements**
  - **Hunt/Smedley**
  - **Reserved and unreserved work**
  - **Workforce issues**
  - **OLC/First-tier complaints**
  - **Quality Assurance**

## Key milestones

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- April 2008 David Edmonds appointed Chairman
- July 2008 Board members appointed
- October 2008 Chief Executive identified
- December 2008 First Board policy statement
- December 2008 Appointment of Elizabeth France as chair of OLC
- January 2009 Board “goes live” with power to make rules
- March 2009 Major consultation on independence
- May 2009 First ABS discussion document
- May 2009 Senior Management Team take up post
- September 2009 Consumer Panel appointed
- December 2009 “Super Thursday” – decision documents on 8 separate consultation exercises
- January 2010 Board goes “fully live” with enforcement powers
- April 2010 Full staffing in place

## Vision for 2013

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- Greater competition and innovation
- Enhanced access to justice
- Empowered consumers having an improved consumer experience
- Constantly improving legal professions, as diverse as the community they serve; and
- Clear regulatory structures which command public confidence.

## 2010/11 Business Plan

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- Eight regulatory objectives at its heart – sets out our understanding of what each means in the context of regulation
- Full staffing means we have chance to address important as well as urgent issues
- Main themes as last year, - shows that strategic identification of issues has stood the test of a year's market developments – but reflecting move from set-up to implementation
- Consultation runs to 5 March. Roundtable consultation event next month

## Putting consumer and public interest at heart of regulation

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- Using research and evidence to understand consumers' experience of the market.
- Supporting the Consumer Panel

## Removing barriers to new business models – continuation of our work on ABS

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- Approval framework for licensing authorities
- Guidance to licensing authorities on their rule books
- Communication “on the ground”
- Related to shift to outcome based regulation
- And reviewing compensation and indemnification arrangements

## Improving complaints-handling

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- Overseeing establishment of OLC, including maintenance of standards in LCS during closedown
- Working with ARs to improve first –tier complaints handling

## Excellence in regulation

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- Regulatory reviews – discussing scope for pilot with SRA
- Reviewing applications for new Approved Regulators
- Reviewing applications for changes to existing ARs' rules
- Amending existing ARs' reserved activities

## Independent regulation

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- Ensuring that our rules on Internal Governance are implemented on an agreed timetable
- Ensuring that post Hunt and Smedley arrangements are compliant
- and proportionate arrangements for PCF approval are put in place

## Developing a workforce for a changing market

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- Widening access to the profession, taking account of post Milburn developments
- Developing dialogue with educators, ARs and industry to make sure that training and education delivers the sort of lawyers society needs
- Making sure that appropriate quality assurance mechanisms are in place
- Early priority on quality assurance for advocates and accreditation – shared interest for both regulatory and representative arms

## Improving access to justice

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- This theme runs through all of our work, especially ABS
- Referral arrangements work – expecting advice from Consumer Panel, consumer and economic research. Final decisions will also need to take account of Jackson
- Stimulating further debate on “Legal Direct” options and related issues
- Boundaries of regulation – reserved and unreserved activities

## Events, dear boy .....

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- Parliamentary and Governmental interests
- Performance of ARs
- Lessons from other sectors
- Specific issues – the next “Miners”

## Conclusion

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- Style through the first year has been one of constructive engagement –Business Plan shows where ideas have developed thanks to views from partners
- Expect this to continue through this year's programme
- So welcome views and discussion on all or any of the above!



**LEGAL AFFAIRS AND POLICY BOARD  
13 January 2010**

**Classification – Public**

**Purpose – For Noting**

**WILLS AND EQUITY COMMITTEE UPDATE**

**The Issues**

This paper briefs the Board on the work of the Wills and Equity Committee. The Board is invited to note the report.

**Remit**

The Board's Terms of Reference (4): *'to set and oversee implementation of policy to promote the Society as a leading voice on law reform'*.

**Financial and Resourcing implications**

None.

**Equality and Diversity implications**

None.

**Consultation**

This paper has been prepared directly for the Legal Affairs & Policy Board.

**Director** Mark Stobbs, Director of Legal Policy  
**Author** Amy McCann  
**Date of report** 4 January 2010

## Report on the work of the Wills and Equity Committee

1. The Wills and Equity Committee's terms of reference are to:
  - a. Keep under review, and to promote improvements in, the law and procedure relating to wills, probate, trusts and charities.
  - b. Liaise with the Probate Section on the matters referred to in (a) and on practice development in those areas.
  - c. Consider and respond to relevant consultation papers from the Law Commission, the Ministry of Justice, the Charity Commission and other branches of Government, as well as proposals from within the Society which bear on the Committee's work.
  
2. The key objectives for the Committee are:
  - a. Providing guidance to solicitors by drafting practice notes or hosting an event.
  - b. Responding effectively to consultations.
  - c. Undertaking research and investigating issues that impact on solicitors and taking pro-active measures.
  
3. The main work undertaken by the Wills & Equity Committee in 2009 included:
  - The Chair of the Public Guardian Board attended a meeting with members of the Committee to discuss concern amongst the profession about the service provided by the Office of the Public Guardian since the implementation of the Mental Capacity Act 2005. Further, the Committee liaised closely with the Office of the Public Guardian and provided input and commented on the new Lasting Power of Attorney forms which came into operation in October 2009.
  - The Committee, in a joint initiative with STEP [Society of Trusts and Estate Practitioners], negotiated a banking protocol with Nationwide Building Society. This protocol is the first Building Society protocol and came into operation on 20 August 2009. This protocol follows on from those agreed in 2008 with Lloyds TSB and HSBC. The Committee is working to re-establish ties with Abbey in an effort to agree a protocol in 2010. The Committee is looking at expanding the banking protocols to include the management of Lasting Power of Attorneys.
  - Members of the Committee, who are also members of the Capital Taxes Sub-Committee of the Tax Law Committee, have assisted in providing representation on taxation changes and issues arising, which specifically affect trusts and wills. The members have attended meetings to discuss the changes to residence and domicile, and have raised issues on the question of the removal of Inheritance Tax receipts and the effect on Business Property Relief from the changes to furnished holiday lettings. The Committee has contributed to various representations by the Law Society on the new higher rate of income tax for trusts introduced in the Finance Act 2009, the HMRC consultation on making compliance checks and the HMRC

consultation on 'Modernising Powers, Deterrents and Safeguards – Working with Tax Agents'. Representation has also been made by the Committee on the changes announced in the Pre Budget Report on 9 December 2009.

- The Committee has provided input and commented on the Law Society's call for the regulation of Will writers. The Committee has contributed to the press team's coverage on this topic. The Committee will continue to provide input into the ongoing debate on unregulated Will writers and assist in the development of the Society's campaign on this topic.
  - The Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008 impose obligations on solicitors who make a contract with a client outside business premises to advise the client of their right to cancel the contract within the cancellation period. The Committee has provided detailed comments on the subject which has assisted in the formulation of the practice note on this topic.
  - The Committee's Charities Working Group published a Charity Law bulletin in October to provide a charity law update for legal professionals. The bulletin covered topics such as charity mergers and gifts in wills, changes to Gift Aid, Charity land – sales, leases, transfers and mortgages, and trustees' annual report – public benefit statement. It is intended that a further Charity Law update will be drafted and published by mid -2010.
  - The Committee responded to a request by the Ministry of Justice to seek views on the suitability of the Perpetuities and Accumulations Bill as a candidate for the new procedure for Law Commission Bills. The Committee supported the implementation of the Bill under the new procedure. The Bill is now the Perpetuities and Accumulations Act which is intended to simplify and modernise the rule against perpetuities and the rule against excessive accumulations, and received Royal Assent in November 2009. The operative provisions of the Act will come into force by an order laid by the Lord Chancellor.
  - The Committee has worked closely with the Brussels office to monitor EU work on wills and succession and provide input when required. The Committee provided input into the Society's response to the proposed regulation in matters of succession and the creation of a European certificate of succession.
4. Committee members have represented the Society on the following stakeholder groups:
- Sir Mark Potter, President of the Family Division, set up a working group to establish a fair and efficient procedure for the publication and disclosure of wills. The aim of the group is to examine the Non-Contentious Probate Rules 1987. The working group is chaired by Lord Justice Munby and the Committee has two members representing the Society as part of the working group.

- A member of the Committee, through an invitation by the Law Commission, sat on a working party to review the intestate succession and the Inheritance (Provision for Family and Dependants) Act 2005.
  - A member of the Committee participated in a pilot programme for Talkback Thames entitled Legacy. The programme worked with families to draw up wills and assisted in estate planning.
5. The Committee published the following practice notes:
- Disputed Wills - published in April 2009 this practice note drafted by the Committee provides advice on circumstances for disclosure of information, failure to disclose and estate protection.
  - Making gifts of assets – published in July 2009 the practice note drafted by the Committee provides advice to solicitors dealing with clients who intend to gift their assets.
6. The Committee is in the process of drafting / finalising the following practice notes:
- Using a power of attorney for banking purposes – the Board will consider this practice note in January 2010 and if approved, the note will be published in late January 2010.
  - Cancellation of contracts – Committee members provided input into the formulation of this practice note.
  - Bankruptcy Practice Note – Committee members are in the process of drafting a practice note to provide guidance on the issues arising out of *Saul v Britten*, where a personal representative paid out to a bankrupt beneficiary instead of the trustee in bankruptcy.
  - Wills instructed by electronic means – Committee members are in the process of drafting a practice note to provide advice on the use of information and communication technology to take instructions, draw up and provide guidance on the execution of wills.
  - Private client lawyers – The Committee is considering drafting a practice note aimed at providing specific advice to private client lawyers that deal with clients outside business premises and in locations such as the client's home, care homes or hospitals on various issues including the implications of the Cancellation of Contracts Regulation and the Vetting & Barring scheme.
  - Reviewing existing practice notes – Committee members will assist in reviewing and updating existing practice notes, specifically the Lasting Powers of Attorney, File Retention, Disputed Wills and Making gifts of assets practice notes.

7. The Committee has responded to the following consultations:

- Regulation review - the Chair of the Committee drafted a response to Lord Hunt's call for evidence regarding the future regulation of the legal sector.
- Civil Costs - The Committee contributed to the drafting of the Law Society's response to the Chancery Litigation section on Jackson LJ's report on Civil Costs.
- Office of the Public Guardian - A joint response from the Committee and the Mental Health and Disability Committee was drafted in response to the Office of the Public Guardian's review of the Mental Capacity Act: forms, supervision and fees.
- FSA Temporary High Balances - The Committee provided input into the Law Society's response to the FSA on temporary high balances.
- Modernising Powers, Deterrents and Safeguards – Working with Tax Agents – The Committee provided input into the Society's response to the HMRC's consultation.
- European Commission proposal on succession and wills – The Committee provided input into the Society's response to this consultation.

8. The Committee is preparing a response to the following consultations:

- Civil Law Reform Bill – relating to the distribution of estates of a deceased person where an inheritance is forfeited or disclaimed. The deadline for a response is 9 February 2010.
- Intestacy and Family Provisions Claims on Death. The deadline for a response is 28 February 2010.
- Office of the Public Guardian: Amendment to secondary legislation –in partnership with the Probate Section and the Mental Health and Disability Committee. The deadline for a response is 9 March 2010.

**Annex 2**



**The Law Society**

**Item 20**

**LEGAL AFFAIRS AND POLICY BOARD  
13 January 2010**

**Classification – Public**

**Purpose – For noting**

**TECHNOLOGY AND LAW REFERENCE GROUP**

**The Issues**

This paper briefs the Board on the work of the Technology and Law Reference Group. The Board is invited to note the report.

**Remit**

The Board's Terms of Reference (4): *'to set and oversee implementation of policy to promote the Society as a leading voice on law reform'*.

**Financial and Resourcing implications**

None

**Equality and Diversity implications**

None

**Consultation**

The paper has been prepared for the Board.

**Director:** Mark Stobbs  
**Author:** Tim Hill  
**Date of report:** 22 December 2009

The Board was last updated on the work of the Technology and Law Reference Group (TLRG) immediately prior to the Group's first meeting on 8 April 2009. Since then the TLRG has held one further meeting - on 15 September.

The Board has received the minutes for both meetings.

### **Review of work undertaken**

At its meeting in April the TLRG considered:

- Data Protection Practice Note;
- Foundation for Information Policy Research (FIPR) report *Database State* and
- the European E-Justice Programme.

It also suggested hosting a briefing on data security issues for members of the profession and developing material on agile working practices. Under Part 2 it considered a commercial proposal for testing an e-mail encryption proposal and also a presentation on risk management.

At its meeting in September the TLRG:

- received updates on Warning Advice and Reporting Points (WARPs) and the Government's Cyber-Security strategy;
- considered the Property Information Systems Common Exchange Standard (PISCES);
- revisited opportunities for publicising its work to other committees;
- discussed opportunities for taking its initiatives on agile working practices and data loss and security forward;
- noted the Law Society response on the Home Office DNA database consultation; and
- under Part 2, received updates from Steve Jeffree (Chief Information Officer and Director of Law Society Services) on Law Society IT issues and from Stephen Mason on the European E-Justice Programme. The Board will recall that it approved the appointment of Stephen Mason as a UK representative on the IT Committee of the Bars and Law Societies of Europe (CCBE).

### **Subsequent work and future plans**

Since September, the TLRG:

- has contributed to a submission to the Office of Fair Trading (OFT) on its statement of scope for a forthcoming Advertising and Pricing Market Studies (which will include studies on online targeting of advertising and prices) and
- commented on a European Commission Consultation on the legal framework for the fundamental right to protection of personal data.

Nicholas Fluck has been appointed as the new Chair of the TLRG and the Board has also approved the appointment of a new member.

TLRG's role is to support other committees in dealing with technology-related questions. In 2010 it intends to 'refresh' this offer of support by writing to committee chairs to remind them of TLRG members' expertise; it will also offer to make presentations to committees about how TLRG may be able to help. A statement from the Chair of the TLRG on the importance and potential contribution of the TLRG to the work of the Society in 2010 is annexed.

TLRG anticipates:

- significant work on electronic conveyancing (in particular, network access agreements) including a series of articles for Property in Practice;
- advice on any residential conveyancing membership scheme portal;
- continuing input to the European E-Justice Programme; and
- a series of helpful and brief updates on issues like 'what is a digital signature? how do I get one?' etc.

There may also be scope for further Practice Notes and there are likely to be further consultations that will require TLRG expertise.

The next formal meeting of the TLRG is scheduled for 23 March 2010.

## **Annex**

### **Chair's Statement on the role and responsibilities of the Technology and Law Reference Group in the Law Society**

The Reference Group is unique in its role and relationship to TLS in that it exists both to provide assistance on matters referred to it but also has a pro-active role in alerting the Society to upcoming matters of importance. By its very nature the Group can scale its response (and therefore its establishment costs) to the work in hand and is well-placed to give direct assistance and truly valuable input to other committees or boards, thus helping them with their work where technological issues may be involved.

There are no areas of legal practice unaffected by technological issues and as major structural changes continue in the methods and mode of delivery of legal services the need for TLS to keep a finger on the pulse is ever more important. Domestically the Legal Services Board is looking for innovative and new ways for practitioners to deliver legal services. Their 2010-2011 business plan states, inter alia, "...But nor will we allow present patterns of service delivery to solidify. The legal services industry – in the High Street, in rural areas, in the City – cannot be immune from the transformations facing all other service sectors..." New developments in Europe will force changes in working methods. The EU Justice Portal will shortly be open for business and aims to add secure video linking for cross-border Court and contractual business. Practitioners who are unable to comply with the encryption and authentication requirements and who do not have access to the portal will, in effect, be disenfranchised from that business.

The membership of the Group has a wide variety of skills and a useful mix of both academic and practical experience. The members include a senior Land Registry registrar, experts on ID, authentication of documents, European legal and IT developments, data protection, risk management, IT security & Internet strategies commercial procurement and even domestic and commercial property law. Most of the members are published authors and, as Chairman, I hope in the year ahead to produce and publish an increasing number of short informative pieces, from the membership, on topics which will be of help and assistance to the profession at large.

TLS is putting a lot of effort into investigating the possibility of a TLS E-Conveyancing portal. Some of the issues associated with that effort are purely technical and members of the Group are keen to assist by addressing these or by providing timely inputs to explain what is, and what is not, technically feasible within TLS budget constraints.

**N P Fluck**  
**December 2009**



The Law Society

**COUNCIL**  
**10 February 2010**

**Item 8 (v)**

**Classification – Public**

**Purpose – For noting**

## **REPORT OF THE CHAIR OF THE SUPPORT SERVICES RESOLUTION BOARD**

### **The Issues**

This is the report of the Chair of the Support Services Resolution Board highlighting issues which the Board considered at its meetings on 17 September 2009 and 11 January 2010.

### **Remit**

The Board's terms of reference are:

- (1) to resolve and determine, subject to the overall control by the Council of the Society's budget, any disagreement arising about the provision of support services to the Solicitors Regulation Authority.
- (2) In this Regulation, 'support services' means –
  - (a) information and communications technology systems;
  - (b) provision and maintenance of premises used by staff within the Solicitors Regulation Authority and facilities management within such premises;
  - (c) staff, in respect of –
    - (i) the numbers of staff employed;
    - (ii) salaries and benefits (including issues related to performance related pay);
    - (iii) general terms and conditions of service, including policies, leave arrangements and flexible working;
    - (iv) equality and diversity issues specific to the staff of the Solicitors Regulation Authority, and
    - (v) the provision of the HR function; and
  - (d) accounting and financial control systemsprovided that the Board may not authorise any unbudgeted expenditure whether of a capital or non-capital nature.

### **Financial and Resource implications**

None arising directly from this paper, as the SSRB has not made any decisions.

### **Equality and Diversity implications**

None.

### **Consultation**

This report has been prepared for the Council directly.

**Author** John Wotton, Chair of the SSRB  
**Date of report** 20 January 2010

## **Membership of the Support Services Resolution Board**

1. The SSRB's membership as at 1 January 2010 is:

The Law Society

Andrew Caplen, Management Board member  
Philip Hamer, Management Board Chair  
Tim O'Sullivan, Management Board member  
John Wotton, Deputy Vice President and SSRB Chair

SRA

Susan Bews, SRA Board member  
Yvonne Brown, SRA Board member  
Peter Duffy, SRA Board member  
Charles Plant, SRA Board Chair

External members

Jody Chatterjee, a former Executive Director at the East of England Development Agency, and a panel Chair for the Judicial Appointments Commission. He is also a Non-Executive Chairman of a company which provides web-based products for management education and training.

Rolf Levesley, a solicitor who recently retired as Chief Executive of Staffordshire County Council. He has served as a Non-Executive Director of a housing association and is a member of the board of trustees for a refugee school in Guinea.

2. The term of office for external members is three years and runs from 1 September 2009 until 31 August 2012.
3. The Board held its inaugural meeting on 17 September 2009. Before this meeting, an induction for the two external members took place to explain why the SSRB had been established. This meeting was attended by directors from the Society and SRA. The Board was given an overview of the current arrangements and potential issues for Group IT, Group HRD and Group Finance and the Support Services Principles.
4. It was explained that the SSRB's remit was to resolve disagreements, but the intention would be to bring key issues to the SSRB at a formative stage rather than waiting until a disagreement had crystallised.

## **LSB Internal Governance Rules**

5. Section 30 of the Legal Services Act directs the Legal Services Board to establish rules for approved regulators to ensure proper separation of the representational functions from regulatory functions. Following consultation, the LSB published its rules in December which subsequently came into force on 1 January 2010. The LSB recognises that it is possible for support services to be provided on a shared service basis to both the regulatory and the representative bodies. The possible implications for the SSRB were discussed with the Board on 11 January 2010.

### **Law Society Budget**

6. The Board was given an update on the 2010 Budget.

### **SRA premises**

7. The SRA Board Chair expressed concern that the SRA is operating from two separate locations in the West Midlands, which has an impact on the service provided. The SRA will present a paper at the next meeting which would outline the benefits of a single site.

### **Next meeting**

8. The Board will next meet on 4 March.



The Law Society

Item 9

**COUNCIL**  
**10 February 2010**

**Classification – Public**

**Purpose – For noting**

## REPORT OF THE CHIEF EXECUTIVE OF THE LAW SOCIETY

### **The Issues**

The regular report by the Chief Executive. This edition covers the period from 30 November 2009 until 25 January 2010.

### **Policy Position**

N/A

### **Financial and Resourcing implications**

N/A

### **Equality and Diversity implications**

This report contains information collated by Directorates covering the strategic remit of the Law Society. Equality and diversity issues, where appropriate, have been highlighted in the relevant Directorate reports.

### **Consultation**

This report has been prepared for Council.

**Director:** Desmond Hudson  
**Author:** Becky West  
**Date of report:** 25 January 2010

## **Corporate Issues**

### **Legal Sector Alliance**

The Legal Sector Alliance (LSA) now has more than 144 firms as members, representing more than a third of solicitors in private practice. The LSA is expanding its focus to include broader environmental sustainability issues. Waste and transport will be the key focus areas for the LSA in 2010. An ongoing focus on broader carbon reduction initiatives will be reviewed to ensure that LSA members continue to share best practice and drive improvement in this area. The first LSA regional knowledge sharing forum of the year is being hosted by Bevan Brittan on January 20 and the Alliance members will be publicly reporting their 2008/9 carbon performance in February.

### **E-Learning Training**

Following the successful roll out of online training for Law Society staff, the Equality and Diversity Committee has reviewed the needs of Board, Committee and Council members and a new programme of training is beginning to start for those groups. This training will be reviewed regularly. Training on the use and understanding of the Equality Impact Assessment tool and the product and the outcomes of its application will be part of the training for Board and Committee chairs and members.

### **Equality Impact Assessment (EIA)**

Work to introduce an EIA tool for TLS is progressing. The EIA process will help to ensure that the Society is compliant with the relevant legislation and will enrich the Society's work on behalf of members. This will increase our understanding of the needs of a diverse membership and the changing environment in which they operate. The successful use of the EIA tool will also improve our development of services and representative activity bringing EIA issues into play at a much earlier stage of any policy product development. The EIA is in the pilot stage, the outcome of which will be reviewed by the Equality and Diversity Committee in July. The EIA process will be kept under close review by the Committee to ensure that it adds value to the work of the Society.

### **Bar Council Amity dinner 2010**

The Amity dinner for Council members of the Law Society and the Bar Council, along with invited guests, is held every two years. The Society and the Bar Council take it in turns to host the dinner and the costs of the dinner are borne equally.

In 2010 the Bar Council will host the dinner, which is anticipated to be on a Friday, the eve of a Bar Council meeting. The cost implications for the Society in terms of travel and accommodation costs for Council members are significant. We estimate that the attendance of 50 Council members would incur travel and accommodation costs of around £12,000. This is in addition to a further £4,000, our share of the dinner costs.

It would be difficult to justify to Law Society members expenditure of around £16,000 on a largely social event, bearing in mind that the Amity dinner will be in addition to the formal Council dinners in July and December. The intention is, therefore, that Council members who wish to attend the Amity dinner should meet the 'ticket' cost of the dinner but, unlike the Bar Council, the Society will meet the travel and accommodation costs.

### **Migrant Lawyers**

The Public Affairs Unit (PAU) continues its ongoing work with large employers in the legal sector to identify issues and concerns with the operation of the points-based system for immigration (PBS).

Many of the recommendations made to the Migration Advisory Committee (MAC) by the Society on behalf of City firms were adopted by the MAC in its report into Tier 1 of the PBS released on 4 December. These changes will enable law firms to employ highly qualified talent from overseas that is critical to ensuring the continued competitiveness of the UK legal services sector.

PAU participated in a UKBA working group to develop new PBS policy implementing recommendations of the recent report of the MAC report into Tier 1 and attended a policy discussion meeting organised by the Immigration Lawyers Practitioners Association. PAU also continued to administer the successful Law Society Tier 5 government authorised exchange scheme, which enables law firms to run placement, secondment and exchange programmes to facilitate business development.

### **Salary Survey Follow-Up**

During the autumn of 2009 the Equality and Diversity team ran a series of focus groups around England and Wales for BME solicitors, seeking more detail on their experience of career progression. This was a follow up to the research into salaries in the legal sector which showed a significant differential between white and BME solicitors, and male and female solicitors. The Equality and Diversity Committee received a presentation of the findings and congratulated the team on their efforts. They asked that the findings be used to work up a protocol under the Diversity and Inclusion Charter around recruitment, retention and career progression for BME solicitors. The Committee asked that a similar strand of work on female solicitors' experiences be carried out as a matter of urgency. This will be a joint venture with AWS.

## **Promoting the profession to the public and business**

### **Solicitor brand – Promotion**

A number of press releases promoting the use of solicitors over other providers of legal advice have been issued, the most notable being our current focus, namely, that there is no need to go through claims managers to assess your injury resulting from the icy weather. These releases are picked up widely in local and regional press and sometimes in national newspapers, and they are an important part of our work to promote the solicitor brand.

With the SRA intervention into Wolstenholmes, the Chief Executive and Regional Manager North West and Birmingham have worked with Manchester Law Society and Birmingham Law Society to develop a scheme which saw local firms step forward to pick up ongoing matters for clients. This was particularly important as an addition to the Intervention Agent's work because so many of those affected had conveyancing work interrupted by the intervention. The Media and PR team coordinated publicity work with the local societies to ensure that a bad news story became an opportunity to promote the robust regulation as a whole, as well as a chance to promote the unique benefits of using a solicitor.

This is the first time that such an initiative has been undertaken and consideration is now being given to whether it should become automatic in interventions which affect

significant numbers of clients. We are facing, at least on this example, a cultural resistance to act in this way. This will require processes and protocols to be put in place between the SRA and Law Society and for Local Law Societies to be engaged so that they are prepared for such an event in their area.

### **Equality and diversity (E&D) benchmarking and working with other organisations**

The Committee has overseen developing relationships with a range of organisations that can help to advance the E&D objectives of the Society. These organisations have been:

- Association of Woman Solicitors (AWS)
- Stonewall
- the Employers Forum on Age and Working Families.

Joint working with such groups will increase in 2010.

In 2008 and 2009, the Law Society took part in the Stonewall Work Equality Index (WEI) - a benchmarking exercise for employers. There are four law firms in the highly contested top 100 again this year: Simmons & Simmons, Pinsent Mason, Herbert Smith and Eversheds. While the Law Society did not make the top 100, it is clear that we have made vast strides in the last twelve months. Our overall score this year was 55.5%. This is 0.5% short of what we needed to enter the top 100 last year. The threshold was raised this year because of general improvements across the board. Our joint efforts during 2009 moved us from 307 in the rankings to 156.

While the Stonewall WEI focuses on issues for lesbian, gay and bisexual employees, the lessons we learn from participation apply across the entire employee group. We will take part in the WEI again in 2010 to measure progress. We will also take part in the Employers' Forum on Age benchmarking exercise for a different perspective.

### **Gazette**

The advertising downturn has proven difficult for the Gazette editorial to maintain profitability. Assuming a (conservative) average of one paid-for feature commissioned externally per issue, across 48 issues, moving features in house produced an annualised saving of about £26,000 (£275 per thousand words per feature of 2,000 words). The Gazette currently has nine full-time equivalents in editorial, compared with 14 at both The Lawyer and Legal Week.

Further incremental developments to the Gazette's website have allowed us to continue to produce a broad-based offering across both platforms. Our social media drive, launched in recent weeks, continues to prosper. Twitter is now our biggest referrer after the major search engines and the Law Society website. We now have 400 plus followers.

Fewer pages have inevitably meant far fewer law reports, which tend to be lengthy. This situation is about to be rectified. We expect to sign a contract deal with Sweet & Maxwell that will allow us to carry up to eight law reports per week online, which we expect to be a major driver of traffic to the site. This is the equivalent of about three additional pages in the magazine per week.

Plans are advanced for the Gazette website to begin carrying podcasts, which will initially comprise interviews with senior legal figures. As a direct result of the huge success and advances on the website, the Gazette is now properly viewed as a two-platform medium. The advent of real-time news means that, notwithstanding print

deadlines, members are kept fully up to date about the most significant developments affecting them.

The website is also proving a valuable conduit for publicising the Law Society's policy position as events develop or through regular updates on talks over conveyancing panels. We can also offer a web platform for Chancery Lane figures to offer timely comment on key issues where space is tight in the print magazine. For example, a recent column entitled 'Dispelling the myths surrounding professional indemnity insurance', advertised in Professional Update, achieved 1,000 reads.

The Magazine unit published 7 products in December; the Gazette published 3 issues plus an Expert Witness supplement. For Sections the unit published the Probate Section Magazine, it also published Litigation Funding, and the directories unit published Charity & Appeals Directory.

[www.lawgazettejobs.co.uk](http://www.lawgazettejobs.co.uk) had the seasonal down turn in traffic that we would expect due to the holidays; however the unique user figures (20,625) and page view figures (195,968) were up against December 2008 by 9% and 14% respectively showing that the overall performance for the site continues to grow.

The 2009 overall recruitment advertising market ended the year 66% down against 2008 in terms of volume across the 3 weekly legal titles. In volume the market was down from 3,327 pages to 1,131 pages. As the year progressed the rate of decline began to steady with December only dropping 40% in volume across the board.

The volume of 'lineage' or classified recruitment advertising has shown a very small upturn for the second half of 2009, which is encouraging but nothing more. The display market place coped a little better with the volume declining by just 18% year on year, 824 pages as opposed to 1,024 pages in 2008.

In 2007 the Council approved a change to policy in relation to advertising. Put simply, any copy that complies with the ASA code is acceptable. The Society avoids any risk of approving or rejecting any particular advertisement.

With the difficult economic climate Gazette sales staffs are striving hard to drive up income, which in turn helps generate net profit that funds Law Society work. It would not be in our best interest to reverse our policy on advertising or the sales process.

## **Government Relations**

### **Wolstenholmes**

Council members will be aware of the major intervention into Wolstenholmes which SRA carried out shortly before Christmas. Plainly the timing of the intervention made it very difficult for the normal communication on issues of this sort to take place. Antony Townsend has sent an email to the Chief Executive following the raising of concerns about the intervention at a meeting the President and Chief Executive had with Charles Plant and Antony.

### ***Email regarding Wolstenholmes [From Antony Townsend Chief Executive SRA to Des Hudson Chief Executive Law Society]***

*We spoke about the concerns arising from the Wolstenholmes intervention during the meeting between Charles, the President, you and me. We agreed that we need a better system for alerting the Law Society to impending interventions of major interest*

*as soon as we can legitimately do so, and Charles has written separately to Bob on that point.*

*Put briefly, a resolution to intervene was requested and made on 23 December 2009. The intervention was effected by the SRA at Wolstenholmes' premises on 24 December.*

*In accordance with the usual procedure, a pre-intervention email was sent to Law Society Regional Managers shortly after 5pm on 23 December. In accordance with the practice of the SRA (and of the Society before it) the fact of the intervention was not disclosed externally until after it had taken place. The Hon Secs of both the local law societies with an interest were contacted by telephone on 29 December (the first working day following the intervention). The SRA's press office confirmed that the intervention had taken place on 29 December in response to a query from the BBC.*

*From 4 January regular contact took place at staff level between the SRA and the Society, during which (within the necessary constraints of confidentiality) the steps we had taken were discussed, and there were discussions about a possible role for Manchester Law Society in offering help to clients seeking legal advice. Steps were also taken with the LCS and the intervention agents to co-ordinate the advice given to clients.*

*On 6 January I wrote personally to Jack Straw, the Secretary of State for Justice and to Mark Hunter, one of the local Members of Parliament, setting out the action we were taking. Copies of the letters were supplied to your staff on 7<sup>th</sup> January, and I attach them since they give considerable information about the extensive steps we have taken to protect the public interest.*

*You will understand that this is a major and continuing investigation, on which there are limits within which I can comment. I would strongly urge any Council member with particular concerns about Wolstenholmes' clients to contact me direct, so that we can resolve any immediate issues as swiftly as possible. We shall, of course, review this case – like any major case – to see whether there are any lessons to be learned.*

There have been (as was customary on major interventions, even before the establishment of SRA) suggestions that it was well known locally that there was a problem with Wolstenholmes, and that intervention action should have been taken earlier. The Chief Executive has asked Antony Townsend to investigate the background, and to let the Law Society know whether he is satisfied that SRA action was taken as promptly as they reasonably could with the information they held. We must of course remember that intervention is a very serious action, which cannot be undertaken lightly. Indeed one issue to be explored is whether there are any mechanisms short of intervention which could protect client funds whilst the issues are investigated, rather than relying almost entirely on intervention to do that.

Following concerns reported to the Law Society by LCS, the Chief Executive has also asked Antony to ensure that the instructions to intervention agents about the respective roles of SRA and LCS are clear, and to ensure that there are appropriate protocols between SRA and LCS for handling of these matters.

It is not yet known whether Antony will be able to let us know the position on those matters in time for the forthcoming Council meeting, but Council members will be informed promptly.

### **Alternative Business Structures: Access to Justice**

Tenders have been invited for the work the Society wishes to commission investigating the likely impact on access to justice of large ABS providers. We hope that we will be able to commission a firm to carry out the work within the next week or so. The Chief Executive will update the Council orally on that.

## **International and National Initiatives/Highlights**

### **International**

At the end of 2009, the International Division had 120 corporate members, 200 individual members and 1800 registered users of the International Division website. We are also in the process of finalising a sponsorship deal with Thomson Reuters who will become the International Division's main corporate sponsors in 2010.

On 24 November our second annual conference was held in the International Marketplace, which was again a successful event with around 120 participants from 25 countries involved during the day and around 250 attending the evening event.

### **Promotional Activity**

#### **China**

As part of our programme of regional 'Think China' events, we took a delegation of lawyers from Tianjin to Bristol on 8-9 December. This visit included a roundtable meeting attended by over 30 representatives from South West firms and a programme of one to one meetings between regional firms and the visiting delegation. This is part of an ongoing strategy to ensure that Chinese lawyers are aware of legal centres outside London. A further visit of Chinese lawyers is planned to Birmingham in March.

### **Practice Rights and Other Bilateral Activity**

On the bilateral front, the following have been the most significant developments or activities since the end of November.

#### **Bulgaria**

We were informed on 27 November by the British Embassy in Sofia that the Bulgarian Ministry of Justice, Margarita Popova, has set up a working group to look into making amendments to the Bulgarian Bar Act following our representations to the Bulgarian government and the European Commission. The Bulgarians had taken legal action against a number of UK firms (and others) with a presence in Bulgaria claiming that their practices did not comply with Bulgarian law, but this law was, in itself, in contravention of European law.

#### **India**

On 26 November we held a consultation meeting with approximately the 20 large commercial firms most anxious to secure the right to open an office in India. Lord Bach, the Ministry of Justice Minister responsible for international matters, spoke at the meeting about his recent meetings with Indian ministers and his expectations about how the Indian situation would evolve. At that stage the outlook for a decision from the pending Advocates Act court case in Bombay, which concerned the definition of the practice of law in India, was pessimistic.

If a decision had not emerged by the end of December before the Chief Justice retired, then the case would have had to have been heard again in its entirety. However, on 16 December, the Bombay Court issued a judgment, which confirmed its original 1995 ruling stating that the existing statutory framework did not provide for

the entry of foreign lawyers. Although on the face of it this looks to be a negative development, we are encouraged that the Court has put the matter firmly in the hands of government by calling on it directly to clarify the situation affecting foreign lawyers. In response to this ruling the Law Society has requested the Indian Minister of Justice to review the legal framework for the regulation of lawyers at the earliest possible opportunity.

### **Nigeria**

In the first week of December, the Law Society organised an inward trade mission for the Nigerian Bar Association. The week-long programme enabled our members to meet with around 20 representatives of the top ranked internationally focussed Nigerian firms who were looking to establish mutually beneficial relationships and referral networks between the UK and Nigeria. As well as attending briefings and other sessions on practice management, meetings with UK industry experts and in-house counsel, the group visited the offices of several firms in London and Liverpool, where they were also hosted by the Liverpool Law Society.

### **EU Issues**

#### **The Treaty of Lisbon**

We reissued an updated version of the Law Society's Guide to the Treaty of Lisbon for solicitors in early December following its entry into force on 1 December. This is intended to be a practical apolitical guide to the Treaty, drafted by the EU Committee, which sets out the implications of the Treaty for the profession and its clients.

#### **Akzo Nobel**

The Law Society is following the Akzo Nobel case before the European Court of Justice (ECJ) very closely. This case concerns the right of in house lawyers to have legal professional privilege in European Competition cases. The Law Society applied for leave to intervene in the case at the appeal stage but was denied. We have, however, been invited to join the European Company Lawyers Association which is a party to the case, before the next hearing at the ECJ on 9 February.

#### **CCBE**

The CCBE held a Plenary Session on 28 November. The two major themes of the plenary session were preparatory work in anticipation of the 2011-12 review of the Establishment Directive and a stocktaking of progress in the evolution of the EU's justice and home affairs programme and how the CCBE intends to be involved in this. In 2010 the CCBE will celebrate its 50<sup>th</sup> anniversary at a special meeting in Basle in September.

#### **International Human Rights**

The Law Society held an event jointly with the Human Rights Lawyers Association to mark International Human Rights Day on 10 December. This event focused on the role and development of the European Court of Human Rights. The event was chaired by Elizabeth Wilmshurst and speakers included Lord Lester, representatives from the AIRE centre and the Ministry of Justice.

In November and December, we sent interventions on behalf of lawyers who are under attack in Syria, Russia, Zimbabwe, Singapore, China and Palestine.

#### **Commonwealth Bar Chief Executives**

The Law Society has received funding from the Commonwealth Scholarships Trust for a further round of capacity building fellowships for the CEOs of bar associations from the following countries: Barbados, Pakistan and Malaysia. We also received

support from the Law Society Charity for the CEO of the Law Society of Zimbabwe and the CEO of the Rwandan Bar as these countries are not eligible for Commonwealth funding. The CEOs will join the Law Society for eight weeks from 11 January for a tailored programme of meetings.

### **National Initiatives (UK operations)**

#### **Diversity and Inclusion Charter**

The Diversity and Inclusion Charter, launched by the Society last summer, has provided a framework to promote Equality and Diversity (E&D) across the legal profession. The Diversity and Inclusion Charter signatories continue to grow steadily, standing now at more than 85 practices.

On a recent presidential visit to Bristol, firms acknowledged that the Society's work on E&D made a significant difference and helped make their task easier. They singled out the Diversity and Inclusion Charter as a very useful tool which helps them engage with their clients. The impact of the Committee's work is greatly enhanced by the collaborative working between Committee members and the staff team.

The Equality and Diversity Toolkit for use by legal practices of every size and type is now at its pilot stage. It is being tested rigorously with a wide range of practice types and sizes to ensure that it is genuinely useful across the legal profession. The intention is to launch the Toolkit in March 2010. This will provide excellent support for legal practices and also make it easier for smaller practices to sign up to the ambitions of the Diversity and Inclusion Charter.

#### **General**

In conjunction with the Public Affairs Unit, the first of a series of seminars to discuss the emergence of Alternative Business Structures is to be held in Leeds at the end of February. This will explore the opportunities and ramifications of the new structure. It is hoped that the event will be a valuable forum for entrepreneurial lawyers and potential investors and intermediaries to exchange ideas and build networks.

The Head of UK Operations has been seconded to PC Fee Project to assist the co-ordination of communications with the profession. A number of individual workshops have been set up to present the proposals to different segments of the membership and to seek their views.

#### **Top 100 firms**

We have continued our close relationship management of the Top 100 firms and have several major activities. There will be a Presidential firm visit to 8 Regional Top 100 firms in January and two dinners with a further 38 Top 100 Regional firms. There is also a Presidential dinner with Lionel Barber, Editor of FT, 6 Top 100 firms, and 4 FTSE 100 Companies to discuss global issues with a particular emphasis on UK/US relations, the EU and the proposed question - *how dependent is the legal profession on the financial sector to succeed?*

In addition to these there will be Office Holder lunches with City firms. The Law Society will organise presentations by SRA and FSA on business continuity to City Forum. A presentation by Baroness Prashar to Top 100 Equality and Diversity Forum is also to be organised.

**The full regional offices update can be found in Appendix A on Corporate Business.**

## **Policy and Lobbying**

### **Anti-Money Laundering (AML)**

The Law Society has responded to the review of the Money Laundering Regulations 2007, conducted by HM Treasury and the Better Regulation Executive.

The issues raised by the Law Society in our response were consistent with our lobbying in this area since the first proposals for the Third European Directive were made in 2004. Since 2004 we have succeeded in achieving certain amendments which have made the law more proportionate and therefore of benefit to our members and consumers. However, there are some outstanding areas which we believe require reform; these issues remain a concern to our members. In this response we were able to demonstrate that some of the adverse consequences of which we had warned, were in fact occurring.

Key issues raised in our response were the need for:

- A better empirical understanding of the risks posed and the cost-effectiveness of the measures used to combat money laundering
- Greater sharing of methodologies within the regulated sector
- The risk-based approach to be fully applied to the requirements to identify beneficial owners and politically exposed persons (PEPs)
- A more pragmatic approach to be taken to “reliance” as set out in regulation 17
- The removal of criminal sanctions for breaches of the regulations.

A full copy of the response is available [www.lawsociety.org.uk/antimoneylaundering](http://www.lawsociety.org.uk/antimoneylaundering)

We expect HM Treasury to release a summary of the responses in January 2010 and their response to the consultation in spring 2010. We will continue to liaise with government in this area to ensure that the Regulations are as workable and proportionate as possible for the profession.

The European Commission has also commissioned a review of the implementation of the Third Money Laundering Directive. This review will be conducted by Deloitte. The Law Society, in conjunction with the Brussels office, will be responding to this review on behalf of the profession.

The provision of anti-money laundering support to the profession continues:

- AML training for autumn 2009 has been completed with consistently positive feedback. Planning is well advanced for AML training in spring 2010, with training sessions offered at three distinct levels - AML in practice, Advanced AML and a Master Class.
- Our AML conference is on 10 June 2010, for which we already have 40 advance indications of interest.
- MLRO groups for the winter commence on 13 January 2010, with over 600 bookings taken so far.
- The first on-line AML training programme is in production and we anticipate its release in spring 2010. This programme is an introduction to the Money Laundering Regulations 2007, and will provide a good grounding to enable MLROs to participate in our more advanced face-to-face training options.

Working in partnership with Legal Policy, we are scheduled to deliver 19 Money Laundering Reporting Officer Group meetings across England and Wales. These provide a forum for sharing good practice, providing information to members and obtaining feedback for future policy formulation. Regional Managers also provide opportunities for the Policy Officer to visit firms to talk about their particular issues and concerns.

### **Conveyancing**

Paul Marsh represented the Law Society at an industry wide meeting with the Parliamentary under Secretary of State for Housing, Ian Austin MP. What was discussed was the economic market in its entirety. This included the continuing poor market conditions, the fragmented nature of the market and market conventions. The consumer experience by Which? and the Office of Fair Trading (OFT) was also topical.

The OFT has published four parts of its research and expects to publish its report on home buying and selling early this year, probably in February. The OFT has indicated that it proposes to carry out further work in relation to referral fees in the conveyancing market.

The Land Registry has announced major redundancies and office closures as a result of the marked downturn in levels of business. There are indications that they may dispose of certain parts of the business. TLS will respond to the 'Land Registry's Accelerated Transformation Programme Consultation on Office Closures'.

Meetings have taken place with the Land Registry in relation to fraud and identity issues. This may result in further joint work on these issues. The Land Registry considers some of its systems insufficiently robust and it seems likely that it will change its systems and its practice to place more risk and liability upon solicitors. The legal liability of solicitors is under consideration with a view to ensuring that the profession does not take on any more legal liability than necessary.

Delays in producing evidence that mortgages have been repaid remains a problem, although anecdotal evidence suggests that where lenders are adopting electronic methods of discharge this is assisting. These delays were a factor in the Land Registry deciding to introduce 'early completion'. There is a possibility that the delay in production of releases by some lenders has masked or enabled some types of non-registration frauds.

The Land Registry implemented its proposals for 'early completion' on 3 August 2009 and reported its practical experience to TLS on 1 December 2009. The Land Registry reported having completed over 16,000 applications under the new policy between its introduction in early August and mid November. However the Land Registry has some evidence that some conveyancers are delaying lodging applications to avoid the application of the policy and the impact of this is being reviewed.

Further communications have taken place with lenders in relation to mortgage fraud and the impact on both panel membership and the terms and conditions of appointment to panels.

### **Judicial Appointments**

The Law Society will assist solicitors applying by organising meetings for those groups of solicitors with 3-4 solicitor judges who can communicate what is involved in being a judge. The aim is to reproduce the informal opportunities for social contact with the judiciary that barristers gain. The first of these events will run in early 2010.

Activity to increase the number of applications from solicitors and particularly solicitors from minority groups continues in collaboration with the Judicial Appointments Commission (JAC). It was recognised last year that a key stumbling block for solicitor applicants for judicial appointments was the role play exercise. The Law Society has produced a video of a mock role play using actors. Judge Geoffrey Kamil, former Council member, has provided a commentary. There has been some delay in securing the approval of the JAC for the publication of this aid to solicitor applicants because of concerns they had about the appearance that certain applicants might be being coached through this process. However, we now have JAC agreement to a launch in February.

We have arranged for Baroness Prashar to address the Law Society Firms Diversity Forum in February to look at the obstacles to solicitors from larger firms seeking judicial appointment and how the culture might be changed to make it more supportive of those ambitions. The Society continues to engage with the JAC's own diversity forum on a series of initiatives on how to widen the pool of applicants for judicial appointments. The Society's efforts are focussing on awareness raising around the opportunities and targeted training to assist applicants in the process. The Society is also establishing networking and very informal mentoring opportunities for applicants with solicitor judges.

Two pilot workshops for those interested in applying for judicial appointment were organised by the Society in August and November 2009. Each was attended by 10 BME solicitors who were acting as volunteers to dummy run the particular training provided. The feedback from those participating was overwhelmingly positive. Ideally the workshop should now be rolled out and made available to all solicitors and across the country at a reasonable charge. Law Society Services are looking currently at the viability of providing this type of training to the whole profession.

In order to promote judicial career development, in partnership with Legal Policy, there will be six joint events with the Judicial Appointments Commission across England and Wales. These will provide opportunities for members to understand the process and requirements. In addition, there will be a pilot run in London involving a panel of Solicitor Judges who will offer interested solicitors informal discussion and advice on the judicial appointment process. This may be replicated across the UK later in the year.

## **Law Reform**

### **Costs**

Lord Justice Jackson has now completed his review of civil litigation costs and he published his final report on 14 January 2010.

The main proposals highlighted by Jackson LJ are:

- Proportionality – the costs system should be based on legal expenses that reflect the nature/complexity of the case;
- Success fees and after the event insurance premiums to be irrecoverable in Contingency Fee Agreements; to offset the effects of this for claimants, general damages awards for personal injuries and other civil wrongs should be increased by 10%;
- Referral fees in personal injury cases should be banned;

- Qualified 'one way costs shifting' – claimants will only make a small contribution to defendant costs if a claim is unsuccessful (as long as they have behaved 'reasonably');
- Fixed costs to be set for 'fast track' cases (those with a claim up to £25,000);
- Establishing a Costs Council to review fixed costs annually;
- Allowing Contingency Fee Agreements (also known as Damages Based Agreements where lawyers are only paid if a claim is successful, normally receiving a percentage of actual damages won) in contentious business;
- Promotion of 'before the event' legal insurance, encouraging people to take out legal expenses insurance e.g. as part of household insurance.

The report is extremely lengthy and complex and many of the recommendations have inter-locking and related consequences. It should also be noted that this is not a Government report and many of the proposals will, in fact, require statutory change or Ministerial approval.

The Society will therefore work closely with Parliamentarians and decision-makers as the report is discussed and further debated to ensure that the voice of the public interest is heard. Many of the recommendations will have wide implications for the profession and these will be carefully considered as part of the Society's ongoing influencing work in this area.

### **Damages Based Agreements**

As previously reported, the Lord Chancellor announced proposals to legislate to regulate damages based (contingency fee) arrangements in employment work. A response to the Government's consultation on Draft Damages Based Regulations has now been completed. These regulations are proposing to regulate all contingency fee agreements in employment matters (including those made with a solicitor).

If certain conditions are not complied with, the agreement will be unenforceable and it is proposed that damages will be capped at 25%. This is likely to impact on access to justice as more complex and lower value claims are likely to be unprofitable to proceed with on a 25% capped basis. The Society has expressed its concerns that, regarding solicitors, there was no evidence to support the necessity for these regulations and solicitors are already sufficiently regulated in the conduct of DBAs in non-contentious business.

### **Children, Schools and Families Bill**

Ministers were reported to be considering an amendment to section 41 of the Children Act 1989 in the forthcoming Children, Schools and Families Bill. Section 41 of the Children Act places responsibility on the Court to appoint a named guardian to safeguard the interests of the child in proceedings. Consideration was being given to amending the section to designate CAFCASS as the guardian instead of a named individual guardian. The Law Society, in a letter to the Secretary of State, expressed concern over the intended amendment. The Law Society also became a signatory to the Interdisciplinary Alliance for Children, which is made up of 16 key stakeholders to voice concern over the proposed amendment to s.41 and the proposed new framework to enable the media to report the substance of family proceedings.

The Bill proposes a framework to enable the media to report the substance of family proceedings. The Law Society supports the aim of the Bill to provide a more

effective, transparent and accountable family justice system through the implementation of a single, consistent reporting regime. However, the Society considers that there are too many uncertainties and potential detrimental impacts underlying the proposed legislation for the Society to support this Bill. The Bill was presented to Parliament on 19 November 2009 and the Second Reading debate was on 11 January 2010. A briefing on the Bill was presented to Members of Parliament before the Second Reading debate. Comments for the Public Bill Committee are being prepared. Comments to be provided to the Joint Committee on Human Rights regarding the Bill are also being considered.

### **Regulation of will writers**

In the wake of the Hunt report, the Wills and Equity Committee is reviewing the issue of regulation of will writers. The Society has previously made representations to the Government that unregulated will writers should be regulated, however this view has not been accepted. The Wills and Equity Committee is currently considering the most appropriate way to progress the Law Society's position further.

### **HMRC consultation on Working with tax agents**

In 2009, a consultation document was published which addressed ways in which HMRC may interact with tax agents in the future to ensure that clients' returns and claims are correct when submitted. HMRC had concerns about the 30% of tax agents that were currently unregulated. A summary of responses to the consultation was published at the time of the Pre-Budget Report. In the previous consultation document it had been suggested that a registration system for all tax agents, including those that were already members of professional bodies, operated by HMRC would be established. The Society had argued against this in our response. HMRC have decided that a full system of registration for all tax agents, with accompanying regulation, would not be feasible.

A further consultation document has also been published. Chapter 4 of the consultation paper deals with proposals for revised procedures for disclosure to the professional bodies. There is already legislation in place to enable HMRC to report members to professional bodies, but they are proposing to lower the threshold at which they can do so to cover making persistent errors, or a lack of care or technical competence in the belief that the professional body would offer help and assistance to a member as thought necessary. The Society will be liaising with the SRA on this issue. The consultation paper also makes proposals to introduce powers to enable HMRC to access the working papers of tax agents who have been involved in deliberate wrongdoing which leads or is intended to lead to a loss of tax and to make a tax agent who has been involved in deliberate wrongdoing liable to a sanction which acts as an effective deterrent. The Society has concerns about the safeguards in place and will be responding to the consultation.

### **VAT and Disbursements**

A formal application to intervene has been made to the Tribunal, to which HMRC has objected. A hearing was due to take place in November to determine the outcome of the application but this was rescheduled by the tribunal. This will now take place at the beginning of February. The policy team continues to support the legal advisers, and has been working closely with members of the Tax Law Committee on this issue, as well as making regular contact with the firm involved.

### **Legal Professional Privilege (LPP) and Compliance Checks**

In the recent case of *Prudential -v- HMRC*, the High Court considered whether LPP could be extended to cover advice on tax law given by accountants (legal advice privilege rather than litigation privilege). *Prudential* had been asked to deliver

documents provided to it by its accountant advisers in connection with a marketed tax avoidance scheme and claimed LPP attached to these. The Court held that taxpayers can only obtain confidentiality as against HMRC in these circumstances when the advice is given by lawyers. The court expressed some sympathy with Prudential's case, recognising that it is slightly anomalous that tax lawyers and accountants are put in a different position despite the taxpayer's ability to choose from whom to take their advice.

It has been a long standing argument of accountancy bodies that there should be privilege for tax advice given by accountants. However, there is no case law in which the application of LPP to tax advice from accountants about tax law had been specifically addressed and answered and privilege has not been extended to tax advice from accountants by statute. For this reason, it is a significant case, particularly, as the judge suggested that *"there is force in the argument that a level playing field on the disclosure of legal advice to the clients of lawyers and accountants should be created"*. More worryingly he suggested that privilege over lawyers' advice should be cut back rather than privilege being extended to cover accountants' advice. Prudential have been granted leave to appeal to the Court of Appeal and the Society will be working closely with legal advisers on a possible intervention in this case.

### **Home Buying Review**

Our consultation on Improving Residential Conveyancing closed in mid-September. We received fifty-five responses from a variety of respondents including local law societies, individual practitioners, law firms and organisations including the Land Registry. A summary of responses has been published. Building on the findings from the consultation we undertook a further round of analysis and stakeholder engagement including a workshop with consultation respondents to explore opportunities for a residential conveyancing membership scheme. Proposals for such a scheme have now been developed in outline and were presented to the Legal Affairs and Policy Board at its meeting in January. LAPB has approved the setting up of a cross-directorate Project Board to oversee the development of a full business case and risk analysis for taking these initial proposals forward.

### **Virtual Courts**

The removal of the requirement that the defendant consents to a virtual court hearing, as a result of the Coroners and Justice Act 2009, came into effect on 14 December 2009. The Practice Note has been amended to take this into account, as well as the suitability criteria used by the police. The policy team and members of the Criminal Law Committee continue to attend regular Operations Team meetings, and a member of the Committee sits on the Local Implementation team for the Camberwell Green Magistrates' Court. Evaluators WM Enterprises are in the process of observations and interviews, and their interim report is expected in the near future. The pilot is expected to conclude in mid-summer. We understand that extended operating hours have also recently commenced. The Society continues to lobby on this issue.

### **Costs in Criminal Cases Regulations**

Following a positive assessment by counsel of the likelihood of success in judicially reviewing the Costs in Criminal Cases (General) (Amendment) Regulations 2009, the Legal Department instructed Kingsley Napley to issue proceedings against the Lord Chancellor, alleging that he has acted contrary to the statutory purpose of the enabling Prosecution of Offences Act 1985, and/or otherwise unlawfully, irrationally and contrary to article 6 of the Human Rights Act 1998. The Law Society is seeking an order quashing the relevant parts of the regulations and/or a declaration as to

their true meaning and effect. Proceedings were filed with the Administrative Court on 7 January 2010.

## **Legal Aid**

### **Civil and Family**

#### **Contracting**

The current Unified Contract (Civil) will be extended to 13 October 2010. The new 2010 Standard Civil Contract will come into force on 14 October 2010. Practitioners will need to apply for and be awarded the new contract in order to carry out any new civil controlled and licensed work from October 2010. The bid round for immigration contracts has already opened. The tender deadline for immigration and asylum services is 12:00 on 28 January 2010. A separate tendering process to provide services at immigration removal centres closes at 12:00 on 5 February 2010. The bid round for all other categories is due to open in February 2010. We are preparing a Practice Note on the changes to both the Civil and the Criminal contract and the bidding process. Road shows are being held for the profession in each region to inform them of the implications for them of the process and the new contract terms.

#### **Family funding**

A new fee system for much of the work was published in November achieving harmonisation of remuneration for solicitor advocates. The new fees for private law children work appear low and some firms might need to consider new ways of managing the case load.

The Family Specification has now been published, and discussions will continue with the LSC on providing clear guidance for practitioners.

#### **Community Legal Advice Centres (CLAC) and Networks**

This is the update which the CEO undertook, at the last two Council meetings, to circulate, following ongoing developments on CLACs.

The LSC continues with its programme of CLACs/CLANs and continues to talk with other local authorities regarding joint commissioning post-April 2010.

Working with Legal Policy, we are co-ordinating a series of road shows on the current Legal Aid issues which will be delivered by Head of Legal Aid across England and Wales in early 2010. These will focus on providing support and assistance on contracting for civil legal aid practitioners. We are projecting approximately 50-60 delegates per event.

In late November, the LSC issued a formal statement indicating a slow-down in the commissioning of Community Legal Advice Services between 2010 and 2012. For the first time the LSC stated that the current model of joint commissioning was not appropriate for all areas and indicated that it would be working with stakeholders to develop alternatives to the single entity model that has been used so far. The LSC wants practical experience from the new consortium models which was effective from October 2009 to see if new methods of integrated services can be rolled out.

Two major research projects on CLACs and CLANs have been undertaken although the outcomes are not yet published. The Legal Services Research Centre is working on material on existing CLACs gathered over the past year, and the Welsh Assembly Government commissioned a report from DG.Legal on alternative methods of

delivering social welfare law. The outcomes of these projects will undoubtedly influence the future modelling of the delivery of social welfare law.

The LSC will be re-tendering over the next eighteen months for the five existing centres – Gateshead, Derby, Hull, Leicester and Portsmouth. The East Yorkshire Citizens Advice Bureau was the successful bidder for the East Riding CLAN and will work closely with Switalskis. The LSC has identified a preferred bidder in West Sussex and prepares to publish details shortly.

Bidding in Barking and Dagenham will close at the end of January and it is understood that several private firms are involved.

Manchester City Council seems determined to press ahead with three CLACs for the provision of legal advice services to Manchester residents only. There is a good supplier base in Manchester and local providers are understandably concerned. The local Regional Manager is in contact with them, meetings have been held, and Richard Miller will be meeting with Council officials on 4 February to highlight the consequences of joint commissioning. The LSC has decided not to hold a tender for new social welfare law contracts from October 2010. The Society has pointed out to Lord Bach the serious risk facing the Government in the quite likely event that the timetable for the Community Legal Advice contracting may slip; since the current civil contracts cannot lawfully be extended further, this could leave the Government with no social welfare law provision come October.

The LSC is also intending to launch a tender in Wakefield in January with the new service becoming operative in July 2010. Joint commissioning in the other areas listed in the Deed of Settlement has been deferred, except in Wales where decisions will be made following the publication of the Welsh Assembly Government's commissioned review.

The Access to Justice Committee appreciates that joint commissioning presents problems for local practitioners. A working party regularly meets to consider the detail of policy statements, and the practical help that can be given by the Law Society to those affected by this policy. The Law Society has published a list of experienced legal aid consultants to assist any solicitors faced with the prospect of a CLAC or CLAN and needing advice on bidding.

## **Crime**

### **Criminal Contracts 2010**

As a result of discussions with the Law Society and crime practitioners, the Ministry of Justice (MoJ) has 'invited' the Legal Services Commission (LSC) not to proceed with its planned pilots for BVT. An MoJ press release stated that Jack Straw and Lord Bach have "listened carefully to the representations made by the Law Society and by legal aid firms" and have been "persuaded that the scheme currently proposed is unlikely to lead to the efficient, re-structured legal services market envisaged by Lord Carter in his 2006 Review of Legal Aid procurement".

The MoJ states, however, that the Government "remains committed" to developing tendering processes with a more ambitious scope which reduce the overall costs for criminal legal aid, and have asked their officials to work closely with the LSC, the Law Society and individual practitioners to develop "improved proposals" by the end of March 2010.

The timetable for tendering for Crime contracts has been put back as a result of this decision not to continue with the BVT pilot. The application process will now start on Monday 15 February 2010, and close on Friday 12 March. All firms that wish to continue providing criminal defence services must participate in this process. All firms that meet the essential criteria will be allocated a contract.

## **Practical Support for Solicitors**

### **Membership Services**

#### **Local Law Society list initiative 2010**

On 22 December 2009 the CEO sent a letter and order-pack to all Presidents of Local Law Societies inviting them to take advantage of the opportunity to receive a free electronic list taken from the Law Society database to help undertake a recruitment or marketing drive to their constituents in 2010. The letter also contained news of a special discounted offer for repeat use of Law Society data and a discount rate for DX mailings.

The Law Society applied its usual terms that the data may only be used once and this must be within thirty days of receipt. This stipulation is made because the information on the Roll changes on a daily basis and it is important that direct mail lists are accurate and up to date. Use of out of date material has in the past resulted in communications being sent to incorrect addresses and in some cases deceased members. This nevertheless was queried by some local law societies.

For the above reasons, the Law Society has also asked that the data be used only for marketing purposes (i.e. a membership drive or for a promotional campaign) and that it should not be transferred into a data base for repeat usage. Local Law Societies have also been asked not to share or allow the data to be used by any other person or organisation, except for the fulfilment of LLS mailings.

Data will be sent out in four tranches in 2010. In order to receive data the following timetable will apply:

Orders must be returned, using the enclosed order form no later than:

- January 22 2010, for data to be sent to LLS in the first week of February 2010.
- March 19 2010, for data to be sent to LLS in the first week of June 2010
- June 18 2010, for data to be sent to LLS in the first week of August 2010
- September 17 2010, for data to be sent to LLS in the first week of November 2010

Work has been proceeding on the development of a Memorandum of Understanding to govern the relationship between the Law Society and local law societies. This Memorandum of Understanding sets out in a standard document the roles, responsibilities, duties and obligations of both the Law Society and local law societies.

#### **Lexcel Applications**

December 2009 figures show an increase in the number of Lexcel accredited firms of 17% in 2009 with a 19% increase in income from application fees. Twelve candidates have been short listed for interviews for the new Lexcel Assessment Panel. The

interviews will be taking place at the end of January and the new Panel will all meet in February.

### **Referral fees**

Following the recent Council Member's motion on this matter, steps have been taken to promote the position adopted by Council. Unsurprisingly, the matter is being debated in the letter pages of the Gazette and this suggests that the profession is divided on this topic.

### **Books and Gifts**

The Book publishing unit released 8 book titles as follows:

- Ancillary Relief (6 November)
- Precedent Library for the General Practitioner (2<sup>nd</sup> Ed) (24 November)
- Strategy for Law Firms (26 November)
- Assessment of Mental Capacity (3<sup>rd</sup> Ed) (14 December)
- Fixed Fees in the Criminal Courts (2<sup>nd</sup> Ed) (15 December)
- Conveyancing Checklists (2<sup>nd</sup> Ed) (15 December)
- Advising Mentally Disordered Offenders (2<sup>nd</sup> Ed) (21 December)
- Solicitors' Duties and Liabilities (2<sup>nd</sup> Ed) (18 December)
- Publication of Issue 4 of Legal Compliance Bulletin.

The books and gifts website ran a 15% off sale on the online bookshop for 25 selected recent titles and the full range of gifts throughout December. The online bookshop added 14 Sweet & Maxwell titles to its listings, including the leading practitioner works Wilkinson's Road Traffic Offences, Brooke's Notary and the new edition of Archbold.

### **CPD Centre**

Work continued on the new online CPD Centre for training, booking and recording CPD. Material for the two existing courses has been updated and will be presented in an improved format whilst material for two new courses dealing with the Solicitors' Accounts Rules and Anti-Money Laundering have also been written.

### **Spreading the Cost of the PC Fee**

This year saw the first marketing insertion within the renewal letters sent by the SRA to the membership for a finance product to assist with spreading the cost of the PC fee. Exclusive Benefits PLC commercial finance was our chosen provider and was responsible for lending just short of £9m to over 1500 members.

### **Mercedes Benz**

The Mercedes Benz scheme sold a total of 161 cars to the membership in the last 15 months. This has represented over £150k of savings to the membership whilst being worth well over £100k in commercial returns to the Law Society. Discussions have begun to extend the contract by another year. We finished the year 26% ahead of the annual target for sponsorship with revenues of £328,375.

### **Client Care Project**

This project has been successfully completed and 147 firms were visited. The feedback has been very positive and many firms have given examples of how they are embedding better systems and procedures to deliver better client care. The Complaints Commissioner, Zahida Manzoor, has responded to receipt of the final report on the project saying how encouraged she is by the outcome of this initiative.

The lessons learned and the formats of the project itself are being used as the basis for the launch of the compliance service in 2010.

### **Sole Practitioners**

2009 was a difficult year for sole practitioners. Issues included attaining satisfactory PI insurance and a number of lenders terminating sole practitioners' membership of conveyancing panels. The Law Society and SPG are working closely together and successfully on both these issues. The SRA are consulting with SPG this month on the proposed new financial model for the practising certificate fee which will see a rise in the total contribution from sole practitioners. A one day conference from TLS for sole practitioners is being planned before Easter to offer support to members on risk management and regulatory issues.

### **Lawyers Disability Division (LDD)**

There has been an on-line 'Costs' Survey, on who should pay if disabled solicitors take longer to complete a task than those who are able bodied. The closing date was 31 December and the results will be analysed and published. Barclays are hosting an 'In-House Legal Open Day' for student members of LDD on 13 January. The division is planning a meeting with the Bar Council in January to discuss holding a joint conference for disabled students who are thinking of entering the law, likely to be held after Easter. A visit to the New Supreme Court has been re-arranged for 25 January to look at their facilities for people with disabilities.

### **Association of Woman Solicitors (AWS)**

AWS and the Law Society were mentioned in Prime Minister's Questions on 9 December 2009 in response to a question from Mr Jim Cunningham, Secretary of State for Justice. The question was "what recent progress has been made in increasing the level of access of women to senior positions in the legal profession?".

AWS are continuing to progress their campaigns on judicial and public appointments and will be providing members with two practical sessions, one with the JAC and one with the Public Appointments Commissioner in February.

Their equal pay campaign is progressing and the AWS are in the process of arranging, with the help of the Law Society, a round-table in Birmingham to identify how to address the problem in practice and to identify what assistance could be provided to firms to address this issue.

The AWS and the Law Society will be running a two-day Returner Course which will be held at the Law Society on 29 and 30 January 2010.

### **Junior Lawyers Division**

JLD in association with the College of Law held a two day pilot retraining course in October on private client work aimed at assisting unemployed solicitors to get back to work. The course was fully subscribed and will be rolled out in the regions in 2010.

Following the success of the JLD's pilot expedition to Borneo in association with Raleigh, the JLD will be formally launching its international development project with Raleigh at an event on 2 February at Allen & Overy solicitors. The next expedition is scheduled for October and has already attracted a lot of interest from junior lawyers. The fourth JLD webinar was held on 25 November on the training contract aimed at first year trainees. It was well attended with very positive feedback.

### **Careers Events**

Development work is under way to offer an enhanced set of careers support and improved information on the website. A number of careers events are being planned.

Inspiring Futures Organisation led an event on 12 January at Greenwich University. The organisation works with young people providing careers and educational guidance and skills development training. It was an all day event (10am-4pm) aimed at inner city students, 16-18 year olds that have an interest in a career in the legal profession. The day consisted of an introduction to the various careers, Q&A sessions and a series of legal challenges for students set by each of the participating organisations. A representative from the JLD gave a presentation on a career as a solicitor. This was held in collaboration with TLS, Bar Council, ILEX, CPS and the Institute of Paralegals, reaching full capacity of 100 students.

Prospects Law 2009/2010 has a publication aimed at graduates considering a career in the legal profession. Hard copies are distributed to all teaching institutions and it is also available on-line at <http://www.nxtbook.com/gp/gp/law0910/#/2> A two page free editorial from TLS is included.

### **Retraining**

An introduction to Wills, Probate and Trust will be held on 3 March 2010 in Birmingham. This is a repeat of the successful pilot held in London in 2009. The Law Society developed this one day introductory training session to help solicitors considering a career move into wills, probate and trust. The session will cover an introduction to:

- Will drafting
- Disputed wills
- Trusts (including IT software)
- Probate

The session will be led by Gill Steel, a solicitor and member of the Law Society's Wills & Equity Committee. The session is accredited with 6 CPD hours.

### **Careers Crossroads**

A repeat of the successful pilot held in London last year is scheduled for 25 March 2010 in Leeds. The interactive workshop (5.00pm-7.00pm) is designed to help members through career transitions. It is aimed at solicitors who are approaching retirement, may have taken redundancy with 8+ years experience, have had a career break or are contemplating a major career move.

The workshop will be led by Sapphire Partners, a specialist head-hunter with a strong track record in advising senior professionals as they plot their second or third careers.

The workshop will cover:

- Taking stock: the importance of thorough and realistic self-assessment
- The advantages and disadvantages of the main alternative career tracks
- How to use your network strategically
- What is a portfolio career and are you suited to it?
- The resources you might use: coaches, outplacement, head-hunters, recruiters
- Developing your 'elevator' pitch
- Best practice for CVs, e-mails, covering letters

- Tips for interviewing
- Mistakes to avoid

### **Library**

The Library answered 27,000 enquiries in the course of 2009 and supplied 4,980 extracts from legal materials to members by email through its Lawdocs service. The Library received an average of 124 visitors per day through the year.

The web-based Law Society Library Online service was improved by a programme of enhancements carried out by LexisNexis in conjunction with the Library team. In the course of 2009 Law Society Library Online received a total of 43,962 visits.

### **Law Society Helplines**

The **Practice Advice Service** has been receiving and responding to a number of different queries relating to Bank Panels. The Service is working cross-directorate on some of the more complex issues and members are appreciating the continued contact and support from the Society. December has seen conveyancing as the area of law that has generated the most enquiries, from panels to separate representation to Land Registry ID.

The **Anti-Money Laundering** arm of the Practice Advice Service is continuing to provide technical expertise and presenting at training sessions to our members at the MLRO groups across the regions. Excellent feedback has been received from the Regional Managers and members in relation to this inter-department initiative. This initiative has been extended to 2010 with a number of dates already in the diary.

**Lawyerline** has received a considerable 396% increase on a month on month basis in calls during 2009 when operated by the Law Society compared with the Legal Complaints Service. Lawyerline has recorded that the most common subject area on which callers seek assistance involves queries relating to the implementation of their own internal complaints handling process. In this regard, Lawyerline has achieved one of its primary objectives, namely to be a robust and pro-active service which delivers improvements in client care and assist solicitors in reducing the level of formal complaints.

The **Pastoral Care Helpline** continues to receive a steady number of enquiries. Given the economic climate in 2009, it is not surprising that employment continues to be the area that the Helpline receives the most calls on.

As the renewal date for PII has passed, this Helpline naturally receives fewer calls. However, members continue to receive support from the PII Helpline through its rationalisation and amalgamation into the Practice Advice Service.

### **Sections**

#### **Law Management Section (LMS)**

Planning is under way for the one day annual conferences for LMS in April, Competition in May and Probate in July. The LMS Financial Benchmarking survey will be published in February and a webinar on the key results will be produced.

The **Dispute Resolution** section is to be renamed the Civil Justice section, following agreement with the Civil Justice Committee, so that there can be a better alignment of their work. Their first conference, on 23 February, is on the Jackson Costs review and will have LJ Jackson as key speaker.

## **Business of Law**

### **Political Engagement**

Following the Queen's Speech and the commencement of the final session of this Parliament, on 18 November, the Society briefed MPs on the Second Reading of the Financial Services Bill on Collective Proceedings on 30 November, the Report stage of the Equality Bill on 2 December and the Second Reading of the Children, Schools and Families Bill on 11 January 2010. The Society also briefed Peers on the Second Reading of the Bribery Bill on 9 December and the Second Reading of the Equality Bill on 15 December.

In addition to the Society's work on legislation, as part of the rolling programme of engagement with the three major parties in advance of the General Election, the Deputy Vice-President, John Wotton, met with Chris Huhne MP, the Liberal Democrat Shadow Home Secretary. Issues discussed with Mr Huhne included potential proposals for a Unified Penal Code, and future proposals for the reform and possible replacement of the Human Rights Act with a British Bill of Rights.

Work continues on the preparation of a Solicitors' Manifesto and arrangements for presenting the manifesto to the leading political parties are being progressed.

**Chief Executive's report to the Council Part 1  
February 2010  
Appendix A**

**Senior Relationship Manager Top 100 Region - Jemma Ralph**

**Summary of Events**

Focus on visits to Top 100 firms by Office Holders, both in London, the regions and Wales, and organising Top 100 events to discuss issues of particular interest to this segment of our membership.

Worked with the Regional Manager and Regional Development Executive to organise Presidential visit to South West including 3 Top 100 firm visits, and a dinner at which 15 Top 100 firms were represented by senior management.

Worked with the Regional Manager to organise Presidential visit to North West including 5 Top 100 firm visits, and a dinner at which 23 firms were represented by senior management.

Facilitated visits for E&D and CR team to 2 Top 20 City firms and worked with Comms and Policy to facilitate presentation by Baroness Prashar and Judge Hickinbottom to Top 100 E&D Forum.

Organised and attended 3 lunches with Top 100 firms and Office Holders.

Organised Presidential dinner with Lionel Barber, Editor of FT as guest of honour and 6 Senior Partners of Top 10 firms and 3 General Counsel of FTSE 100 companies.

Facilitated meeting for President with Magic Circle firm.

Co-ordinated presentation by SRA and FSA to Top 100 City firms on business continuity.

**Firm Visits**

- 14 firm visits undertaken.
- Face to face engagement with approximately 70 senior representatives of Top 100 firms.

**Current Issues**

- Regulation.
- Value Billing.
- Unclaimed Client Account Monies.
- Education and Training and Ethics.

**Other Information**

SRM continues to work closely with International, Policy and Communications colleagues on a number of issues relevant to constituents, particularly in regard to regulation of the profession, ABS, Education and Training, CR and E&D and International work. SRM also working with Membership and Commercial Services on Top 100 offering in 2010.

## Wales Region – Lowri Morgan

### **Meetings taken place:**

- Cardiff and District LLS
- Confederation
- Swansea LLS
- Justice Wales Network

### **Visits**

Lord Chancellor's Lecture on 'Administration of Justice in Wales' was attended by the then First Minister Rhodri Morgan, senior judiciary and a wide cross-section of the profession. Some 350 attended the lecture. Extensive media coverage.

### **Current issues**

- AML
- Conveyancing
- PII

### **Future work in progress**

- Wales specific CPD programme
- The Wales National CLS Providers Forum will meet to discuss the DG Legal report for the Welsh Assembly Government on the sustainability of Community Legal Services in Wales.
- Meeting planned with the LSC Wales Director Paul Davies to discuss current issues.
- Following written submissions on its Inquiries into Reports on Statutory Instruments and the evolution of Schedule 5 Government of Wales Act 2006 the National Assembly Subordinate Legislation Committee has requested oral evidence from the Law Society in Wales
- The Welsh Affairs Committee in Westminster has requested oral evidence on its Inquiry into the understanding and observation of the devolution settlement within Whitehall.

### **Other information**

The quarterly meeting with the Counsel General will take place in early February. This will be the first meeting with the new incumbent, John Griffiths AM. The Wales Office has worked extensively with him during the past decade. The former Newport solicitor has always been very supportive of the Law Society's engagement with the Welsh Assembly Government.

### **Brussels Visit:**

A group of practitioners will visit Brussels at the end of February. They have been invited by the Welsh Assembly Government to attend the St David's Day Wales in Europe Conference with the First Minister Carwyn Jones and other Cabinet Ministers.

## Eastern Region – Anna Donovan

### **Meetings taken place:**

Meetings taking place in January – February 10

- Firm visits x 5
- Local law societies x 6
- East of England Business Group meeting
- RDA Business Intermediaries meeting
- Meeting with ALLIES CEO

### **Current issues**

- Matter starts continue to be an issue for the region.
- Continuing economic conditions
- ABS

### **Future work in progress:**

Second redundancy workshop

- LA seminar + firm visits & lunch with LA practitioners
- Preparation for OH visits in the new year
- Arranging a dinner for the region's Council members.

## East Midlands Region - Samantha Rankin

### **Short summary of events taken place**

Please note the reports are unavailable for January due to sickness

## Greater London Region – Morag Goldfinch

### **Short summary of events taken place**

National events in Greater London

- Legal Services Act Seminar – London Corporates – 13 Jan
- Legal Services Act Seminar – Middlesex – 19 Jan
- Solicitors Accounts Rules Seminar – Middlesex – 19 Jan

Regional events:

- Money Laundering Reporting Officers Group – Central 27 Jan
- Money Laundering Reporting Officers Group – West London 2 Feb
- Money Laundering Reporting Officers Group – South – 9 February
- Money Laundering Reporting Officers Group Central – 10 February
- Civil Legal Aid tendering Roadshow – 1 February
- Civil Legal Aid tendering Roadshow – 8 February

### **Meetings taken place**

Mr John Telfer, MD of Capital Quality London, to discuss marketing strategy and future cooperation in promoting Lexcel to Greater London firms

- CLAC/CLAN/CLAS Working Group, representing Regional Managers

- Barking and Dagenham CLAC meeting
- West London Law Society x 2
- South London Law Society Committee
- City of Westminster and Holborn Law Society Committee
- Middlesex Law Society Committee – report and apologies
- Lis Hughes and Vanessa Shenton to discuss regional promotion of LMS

### **Visits**

Office Holder visits planned for:

- February – Legal Aid firms
- South London - visits to smaller firms

### **Current issues**

- Legal aid tendering and impact on small/BME firms
- Jackson Review
- CLAC tendering process in Barking and Dagenham
- AML

### **Future work in progress**

Planning visits to criminal law Legal Aid firms in Greater London Programme of Office Holder visits to take place.

## **North East Region – Judith Mason**

Regional Manager was on leave from 17 December to 4 January.

### **Meetings taken place:**

A number of meetings have been postponed and rescheduled due severe weather conditions.

In the period covered by this report the following took place:

- Money Laundering Reporting Officers networking group
- Legal Aid event with Richard Miller.
- Co-ordinating a meeting of the North East Joint Committee of Law Societies usually attended by Council members and the four local law societies in the region.
- Meetings with Business Link North East to discuss support for firms in the region. Discussions with the Business Adviser for Law re events for solicitors and a separate database of consultants and providers that have expertise in working with law firms.
- Meeting at Northumbria University Law School to discuss management courses for solicitors. It was suggested that Business Link be invited also to maximise the potential for designing programmes that may attract funding support for firms.
- Meetings with 6 firms planned for coming weeks, weather permitting

**Current issues**

- Responding to queries re the Jackson Review on Costs.
- Responding to queries on Legal Aid tendering.

**Future work in progress**

- Planning is ongoing for the coming months on office holder visits to the region, speaking opportunities for other senior colleagues and judicial appointments event.
- Continuing to lobby Northumbria Police on interview room facilities in police stations.

**North West Region – Jo McLeod****Short summary of events taken place:**

- Professions Group dinner with Chief Executive of North West Regional Development Agency
- Managing Partners Dinner for Top 100 firms
- Professional Manchester hosting a visit with Mayor of City of London
- Islamic Finance Conference in partnership with CIMA
- Legal Aid seminar
- Money Laundering Reporting Officers Group
- Network MP meeting for Top 100 Managing partners
- 

**Meetings taken place:**

- Meeting with Managing Director of Business Link North West to discuss FPS objectives
- Meeting with North West Universities Association to discuss enterprise and firms assisting graduate start up hubs
- Meeting with Manchester Chamber to discuss ERDF funding for firms branding exercise
- Monthly meetings with North West Regional Development Agency
- Meeting with Manchester City Council to discuss Manchester CLAS proposal
- Quarterly Professions Group Meeting
- University of Central Lancs Advisory Board meeting
- Rochdale, Liverpool, Chester & Manchester local law society meetings

**Visits**

- 9 firm visits
- President meeting with Top 100 firms

**Current issues**

- Manchester CLAS
- Co-op/Britannia
- Wolstenholmes Intervention
- Employee engagement
- Economic conditions

**Future work in progress**

- Legal Awards Manchester

- Local Law Societies conference Liverpool
- ANWLS Conference

### **South East Region – Kim Seth**

#### **Short summary of events taken place**

A consolidation and planning month during mid December to mid January, followed by a month of intense activity until mid February.

#### **Meetings taken place:**

- 2 firm visits

#### **Visits**

- 11 firm visits
- 5 meetings with local law societies
- Combined Sussex local law societies meeting
- Speech at a local law society AGM

#### **Current issues**

- Changing regulatory structure
- ABS and external investment
- International Development
- Land Registry Office closures

#### **Future work in progress**

January and February Anti-money laundering networking events in Oxford, Guildford and Maidstone.

- February Legal Aid Roadshows in Maidstone and Southampton
- Organising 3 days of Office Holder visits in quarter one 2010
- Organising 2 days of AML visits in February 2010
- Supporting Sussex Law Society with a bespoke Managing Partners lunch
- Organising a day of Director visits in March 2009
- Working with SEEDA, UKTI and the Law Society's International Division to support members grow their international reach.
- Supporting UKTI's new 'professional services advisor' to prioritise law firm support in the South East.

### **South West Region - Matthew Still**

#### **Short summary of events taken place**

- 16 November Development Executive looked after AML seminar, Bristol
- 17 November Development Executive attended Bank of England briefing, Bristol
- 18 November Development Executive attended College of Law Bristol launch
- 9 December Development Executive looked after LSA 2007 Seminars, Bristol

#### **Meetings taken place:**

- 25 November Development Executive attended AGM of Bristol Law Society
- 8 December Development Executive attended Glos & Wilts LS committee meeting

### **Meetings due to take place**

- 12 January Committee Meeting of the Association of South West Law Societies (since cancelled)
- 12 January Office Holder Dinner with Top 100 representatives in Bristol
- 15 January Regional Manager and Development Executive meeting Mike Lind, new President of Bristol Law Society
- 18 January Regional Manager attending Cornwall Law Society Committee Meeting
- 18 January Regional Manager meeting Maria Memoli (Council Member)
- 20 January Regional Manager and Development Executive attending Legal Sector Alliance meeting, Bristol
- 25 January Regional Manager and Development Executive attending meeting hosted by Rolls Royce for members of BitC and heads of businesses
- 9 February Regional Manager attending Legal Aid Roadshows, Bristol

### **Visits**

- 2 December Regional Manager and Development Executive visited Davies & Partners, Bristol
- 13 January, Regional Manager and Bob Heslett visiting:
  - Bond Pearce
  - TLT
  - Burges Salmon
  - Beachcroft
- 15 January Development Executive to visit ADR Group, Bristol
- 25 January Regional Manager and Development Executive to visit Withy King, Bath
- 13 – 5 February series of firm meetings in Plymouth, Exeter and Bristol to discuss AML issues (Regional Manager accompanied by Law Soc AML Policy Officer)

### **Current issues**

- Criminal and civil legal aid (particularly in relation with BVT proposals)

### **Future work in progress**

- JAC event
- Civil Legal Aid roadshow
- MLRO Groups and AML firm visits

### **Other information**

The South West continues to publish a monthly newsletter which is available on the Law Society's South West regional webpage.

## **West Midlands Region – Clive Black**

### **National events in West Midlands**

- Civil Legal Aid Tendering seminar (led by Richard Miller)

### **Regional events:**

- MLRO group Birmingham (led by Gary Christiansen)
- Planning for Success in Professional Practice Lecture II (in conjunction with Coventry University)

#### **Meetings taken place:**

- Talbots, Stourbridge (Mary Mocklow, Practice Director)
- Mfg solicitors, Kidderminster, (Maynard Burton, Chairman and Suzanne Lee, Board Member)
- Williamson & Soden, Shirley / Solihull, (Ian Williamson, Senior Partner and Audrey Price HR and Risk Manager)
- Blakemores, Birmingham (Guy Barnett, Managing Director)
- Advantage West Midlands, Birmingham (Mo Trudell, Manager Professional Services Cluster)
- Wragges, Birmingham (Cheryl Robinson, International Services Manager)
- Bank of England, Birmingham (Graeme Chaplin, Bank of England Agent for the West Midlands)
- Wragges, Birmingham (Paul Howard, General Counsel)
- Birmingham Forward, Birmingham (Dr Richard Brennan, Chief Executive)
- Joint IV local law societies quarterly meeting, Birmingham
- James Frost, AON, Birmingham
- James Hillard, Chief Operating Officer, Wright Hassall LLP
- Higgs & Sons, Brierley Hill
- Alison Hook: meeting with Birmingham Law Society International Committee followed by day of firm visits

#### **Current issues**

- Adverse publicity
- Regulatory approvals prior to firm merger
- Abbey panel
- Employee remuneration reduction
- Referral fees
- SRA requirements for enrolling on LPC

#### **Future work in progress**

- Think China – hosting delegation of 20 Chinese Lawyers in Birmingham 24 March
- President Bob Heslett – visit to Birmingham 26 April
- Seminar – Joint Venture with AWS West Midlands Subject - Equal Pay Campaign
- Lexcel Open House - promotion of Lexcel
- Three further seminars in the “planning for success in a professional practice” series (in conjunction with Coventry University).
- Organising further firm visits

### **Yorkshire Region - Fiona Tatton**

#### **Short summary of events taken place**

- West Yorkshire Criminal Justice Board Focus Group
- Bank of England Agent’s Annual Reception
- Legal Aid Roadshow

## **Meetings taken place:**

### **Externally**

- Yorkshire Union of Law Societies meeting
- Legal Aid regional taskforce meeting
- Huddersfield Law Society meeting
- Meeting with Connect China
- Halifax Law Society meeting
- Barnsley Law Society meeting
- Hull Law Society meeting
- Yorkshire Law Society meeting
- Meeting with Regional Director of CBI
- South Yorkshire Law Societies meeting
- Meeting with London Stock Exchange regional contact
- Meeting with firms wishing to work towards Lexcel accreditation

### **Internally**

- Policy – arranging visit for Head of Professional Policy and Representation and AML Policy Advisor
- Public Affairs – further work around Regional ABS events. Pilot event to be held in Yorkshire.
- International Division – design of programme and recruitment for Brussels office visit.
- Lexcel - organised training for RM team in conjunction with Lexcel Manager.

### **Visits**

- Head of Legal Aid, Richard Miller, visit to Yorkshire – event and firm visits.

### **Current issues**

- Legal Aid funding challenges
- Getting ready for ABS

### **Future work in progress**

- MLRO Networking Group – York
- ABS Regional Event
- LMS Managing Partners Forum
- Brussels Office Visit
- Legal Sector Alliance Event
- Visit for Head of Professional Policy and Representation.
- Visit for MLRO Policy Officer
- European Young Bar Association Spring meeting
- Regional Sole Practitioners Event
- Junior Lawyers Regional Network