



## Law Society South West regional review (June 2013)

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## News

### Law Society responds to MoJ Legal Aid Consultation

Opposition to proposed changes to legal aid continues and members can read the Law Society's response to the MoJ's Transforming Legal Aid Consultation below. The Society believes that the government's proposals for introducing competition in the criminal legal aid market present unacceptable risks to the administration of the criminal justice system.

The abolition of choice of solicitor will remove one of the key drivers for quality and we do not believe that the existing market will be able to adjust to the new provisions without risking serious detriment to quality and availability of services.

In preparing the response, the Society commissioned research from Andrew Otterburn and Vicky Ling into the finances of legal aid firms, and broader market analysis from Deloitte. These reports vindicate grave concerns that the approach proposed by the government is economically unviable.

President Lucy Scott-Moncrieff said the Society is prepared to discuss alternative ways to make the necessary savings, but she stressed that any plan must retain the right of clients to choose their lawyer, encourage the market to develop organically over a reasonable time and embed quality in the system. She said: 'The removal of client choice is a red line.'

Principal concerns are:

- The proposal to abolish freedom of choice of representation is an unacceptable inroad into the basic rights of those facing criminal charges;
- The imposition of Price Competitive Tendering with the price cap will make it uneconomic for firms to provide quality services, leading to a wholesale exodus from the market;
- The fixed contract sizes will make it impossible for smaller firms to remain in the market and provide no incentive for firms to compete on quality; and
- The flattening of fee rate so that a solicitor is paid as much for a guilty plea as for a potentially complex case where a client is not guilty will introduce perverse incentives and a danger of miscarriages of justice.

The Law Society Legal Aid team, under the excellent leadership of Richard Miller, has been working hard in engaging with members and preparing our response to the MoJ's consultation, which is due to be submitted on 4 June.

The Justice Select Committee will be looking at the proposals on Tuesday 11 June, and the Law Society President Lucy Scott-Moncrieff will present evidence on behalf of the Law Society.

The Law Society's response and other campaign information is available:

<http://www.lawsociety.org.uk/representation/policy-discussion/transforming-legal-aid-consultation-law-society-response/>

<http://www.lawsociety.org.uk/representation/campaigns/criminal-legal-aid/>

### Profession joins forces to oppose legal aid proposals – sign the e-petition

Criminal legal aid practitioners and representatives from local law societies from across the South West and beyond have joined forces with the Law Society in opposing proposals put forward by the Lord Chancellor. Media coverage also appears to be gaining momentum notwithstanding some misleading comments about levels of income received by legal aid firms from the public purse. Matthew Still, the Law Society's South West Regional Manager, South West Council Members, and Richard Miller, the Society's Head of Legal Aid have been speaking to practitioners from across the region and are fully aware of the financial reality for the majority of solicitors employed in the sector.



Various practitioner groups made up of both solicitors and barristers have met over recent weeks, and the Law encourages members from across the profession (not just those working in Crime) to support the e-petition launched by Exeter solicitor Rachel Bentley <http://epetitions.direct.gov.uk/petitions/48628>.

Social media users can also follow members' activities via #saveukjustice.

## **Re-Run constituency boundary consultation – have your say by 11 June**

The Law Society is consulting members in Wales and adjoining parts of England about the boundaries for Council election constituencies in these areas. The issue is whether Wales should have its own self-contained constituency structure and, if so, what changes should be made to those constituencies which cross the border between Wales and England.

This is a re-run of an earlier consultation which achieved only a low turnout. Electoral Reform Services (ERS) have emailed members in the constituencies listed below to explain how views on the issue can be registered on the ERS website. A background document explaining the issues can also be found on the [ERS website](#). The constituencies concerned are:

- No 18 West Country and Gwent
- No 19 South Wales
- No 20 Mid and West Wales
- No 21 The Welsh Marches
- No 25 Cheshire and North Wales

If your registered office is in one of these constituencies and you have not received an email from ERS about this consultation, you may contact ERS and register your views. Please contact [customerservices@electoralreform.co.uk](mailto:customerservices@electoralreform.co.uk) (telephone 020 8889 9203) to be given a security code to access the ERS website. Views may only be registered through this website.

## **Government decision not to regulate will writers leaves consumers at risk**

The Law Society has reacted with disappointment to the government's decision not to regulate will writers. The government's decision, announced today, rejects advice from the Legal Services Board (LSB) based on evidence of dishonesty, incompetence and bad practice by unregulated will writers.

<http://www.lawsociety.org.uk/news/press-releases/law-society--consumers-remain-at-risk-from-cowboy-will-writers/>

## **Excellence Awards 2013 open for nominations**

Nominations are available in the following categories:

### *Firm/team awards criteria*

Excellence in Pro Bono - new for 2013

Excellence in Exporting Legal Services - new for 2013

Legal Sector Alliance Award for Excellence in Environmental Responsibility

Excellence in Client Service

Excellence in Marketing & Communications

Excellence in Business Development & Innovation

Excellence in Learning & Development

Excellence in Diversity & Inclusion

CQS Award for Excellence in Conveyancing Practice

Lexcel Award for Excellence in Practice Management



## *Individual awards criteria*

- Legal Business Woman of the Year
- Solicitor of the Year - In-house
- Solicitor of the Year - Private Practice
- Solicitor Advocate of the Year
- Junior Lawyer of the Year
- The Law Society Gazette Legal Personality of the Year

<http://www.lawsociety.org.uk/representation/excellence-awards/>

## **Admissions ceremony for solicitors admitted before 2009**

On 12 July 2013, the Law Society is running an admissions ceremony for solicitors admitted to the roll prior to 2009.

<https://events.lawsociety.org.uk/ClientApps/Silverbear.Web.EDMS/public/default.aspx?tabid=37&id=192&orgId=1&guid=f048fab6-f82f-4117-81e6-2e96b328839f>

## **Law Society President visits Bristol**

Law Society President, Lucy Scott-Moncrieff, had the pleasure of meeting various firms and practitioners in Bristol last month. Lucy's visit included meeting representatives from medium-sized firms as well as larger city firms, visits to local ABS practices, and an opportunity to speak to a broad audience kindly arranged by the Bristol Law Society. Many thanks to all who had an opportunity to listen and to speak with Lucy.

If members would like to meet with a Law Society Officer Holder during future visits to the South West, please contact [matthew.still@lawsociety.org.uk](mailto:matthew.still@lawsociety.org.uk).

## **South West Events**

### **Equality & Diversity Forum (Bristol, 6 June)**

Many thanks to Michelmores LLP and Osborne Clarke LLP for hosting the recent round of South West Equality & Diversity Forums. Key topics covered at the forums were unconscious bias, flexible working, and regulatory requirements (Principle 9). Delegates were reminded of the SRA's new diversity reporting requirements (see Compliance and Regulation Update below). Further support and guidance is available from the Law Society's Equality & Diversity Section <http://www.lawsociety.org.uk/communities/equality-diversity/>.

### **CQS Developments (Bristol 18 June)**

The Conveyancing Quality Scheme (CQS) provides a recognised quality standard for residential conveyancing practices. Membership achievement establishes a level of credibility for member firms with stakeholders (regulators, lenders, insurers and consumers).

As a member or potential member of CQS come along to discuss the following topics:

- CQS Update
- Numbers
- Assessments
- Visits
- Portal
- Lenders & Panels



- New TA6
- Leasehold/Managing Agents Form
- Green Deal

<https://events.lawsociety.org.uk/ClientApps/Silverbear.Web.EDMS/public/default.aspx?tabId=37&id=238&orgId=1&guid=01e1bd9a-9cd6-405e-a10c-d9c059219214>

## Compliance and Regulation Update

### Funding Rising Intervention Costs

A large number of firms of varying sizes are experiencing financial difficulties in the current economic climate. When all other options available to the Authority have been exhausted, the SRA may have no alternative but to protect clients by intervening into these firms when they no longer have the necessary funds to discharge their obligations.

In comparison to previous years, 2012 saw a reduced need for interventions, but the first four months of the year saw 15 interventions take place, two of which are estimated to cost £1.8 million because of the size of the firms involved. There can be no certainty over future possible intervention costs, but from within a range of scenarios, the SRA's best estimate is that the cost in 2013 may be around £7 million.

The SRA believes that the Compensation Fund is the only viable option to meet these costs. The Law Society has told the SRA that the funding of interventions using the solicitors' Compensation Fund is preferable to a levy on the profession. However it not a long-term solution.

<http://www.lawsociety.org.uk/representation/policy-discussion/compensation-fund-intervention-consultation/>

### SRA approves changes to Phase 1 of QASA

The Solicitors Regulation Authority (SRA) Board has made rule changes to extend the deadline for the first phase of the Quality Assurance Scheme for Advocates (Crime) (QASA) Regulations from 10 January to 9 March 2014, following its approval in April of the Scheme and Handbook changes for submission to the Legal Services Board for final sign-off.

The change will not affect the dates for the launch of phase two (10 March—13 June) and phase 3 (30 June—3 October) in 2014.

### Diversity Reporting Requirements (Summer 2013 onwards)

Following requirements set down by the Legal Services Board, firms regulated by the SRA are required to collect, report and publish workforce diversity data about the diversity make-up of their workforce.

In collecting this data, firms are required to give every individual in their workforce an opportunity to self-classify against a range of diversity characteristics. The aggregated workforce data must be reported to the SRA, broken down by the specified role categories and a summary of that data published by the firm.

The time table for 2013 is as follows:

- Firms are advised to start planning their diversity data collection now;
- The facility for online reporting will open in the Summer 2013 and will remain open for firms to comply with their annual reporting requirements;
- Firms must report their data online to the SRA by 31 January 2014;
- The SRA will take a snapshot of the aggregated data in February 2014.



The SRA has published guidance and Q&As, which can be found online at:  
(<http://www.sra.org.uk/sra/equality-diversity/diversity-data-collection.page>).

Support and guidance on diversity reporting requirements is available from the Law Society  
<http://www.lawsociety.org.uk/communities/equality-diversity/>

## Easing the Regulatory Burden

The Law Society wants to ease the regulatory burden on firms and is inviting members of the profession to offer their views on how red tape can be reduced.

The Law Society conducts a regular survey of solicitors' experiences of regulation to ascertain areas of difficulty and to measure the impact of changes in regulation. The recent survey revealed that businesses are still struggling with the evolving regulatory landscape.

The survey also showed that solicitors believe that the current regulatory regime places too greater burden on firms and the cost of compliance is a major concern to them.

However, firms see the SRA's enforcement under outcomes-focused regulation (OFR) as a credible deterrent, indicating that a move to OFR is not seen by firms as 'light touch'.

<http://www.lawsociety.org.uk/news/press-releases/law-society-seeks-to-ease-regulatory-burden/>  
<http://www.lawsociety.org.uk/representation/research-trends/research-publications/regulatory-performance-survey-findings-2012/>

## Compliance support for firms

Remember the Law Society's risk and compliance service is available to offer ongoing support to members.

<http://www.lawsociety.org.uk/communities/risk-compliance-service/>

## Practice Notes

### Flood Risk (23 May 2013)

Flooding is a growing risk for British property. Aside from physical damage caused by floods, if a property is at risk of flooding it may be difficult to:

- obtain a mortgage
- obtain suitable insurance cover, or
- sell the property.

This is likely to affect the value of the property.

Solicitors are not qualified to give advice on flood risk or interpret technical flood reports. However, this note aims to provide you with information to help your clients investigate the terms on which buildings insurance cover, including flood risk, is available, prior to their entering into contractual commitments. It provides general information in relation to flood searches and other means of investigation.

You should encourage your clients, prior to their entering into a contract, to make sure that insurance can be obtained for the property on acceptable terms. You should also liaise with clients in relation to which, if any, flood searches or other investigations, may be appropriate.

<http://www.lawsociety.org.uk/advice/practice-notes/flood-risk/>





## Collecting, Reporting and Publishing Diversity Data (9 May 2013)

In 2011, the Legal Services Board (LSB) published [statutory guidance](#) (PDF 462kb) setting out its expectations of approved regulators in measuring levels of diversity and social mobility in the legal workforce.

As a result, practices regulated by the SRA – including sole practitioners, recognised bodies and alternative business structures – are required to annually collect, report and publish data on the diversity of their workforce. These requirements do not apply to regulated individuals working for in-house practices or other bodies currently not regulated by the SRA.

The SRA has published guidance and Q&As, which can be found [here](#). The aim of this practice note is to:

- briefly set out the rationale for these requirements, and
- highlight the key points for practices and individuals

We have also indicated how the Law Society can assist you and your practice in this area.

<http://www.lawsociety.org.uk/advice/practice-notes/sra-equality-monitoring/>

## Unbundling Family Legal Services (1 May 2013)

Since 1 April 2013, legal aid is no longer available for most private family law matters where there is no history of domestic violence and abuse. Clients of modest means including those who would not previously have been eligible for legal aid are unlikely to be able to afford to instruct a solicitor on the basis of a traditional retainer, but they may wish to instruct a solicitor under a partial retainer for a particular aspect or aspects of their case.

Increasingly, firms are introducing some level of unbundled services as a more affordable alternative to the traditional retainer. This practice note aims to advise practitioners on best practice in relation to unbundling whilst pointing out the potential risks and how to minimise them.

<http://www.lawsociety.org.uk/advice/practice-notes/unbundling-family-legal-services/>

## Consultations

### SRA Red-Tape Consultation (Closes 28 June 2013)

This consultation forms part of the SRA's continuing Red Tape Initiative to remove, curtail or simplify regulations and processes which are not demonstrably in the public interest, impeding both those the SRA regulates and its ability to focus on the issues that really matter.

<http://www.sra.org.uk/sra/consultations/red-tape-initiative-phase-2.page>

For a full summary of all the recent Law Society consultation responses, please visit:

<http://www.lawsociety.org.uk/representation/policy-discussion/>

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