



The Law Society

Chief Executive's report to council September 2005

Summary

A report on Law Society activity since the July Council meeting.

Recommendation

Council is invited to note the contents of the report.

Risk

None.

Financial and resourcing implications

None arising from the report.

Equality and Diversity implications

None arising from the report.

Freedom of Information

This paper is public.

Consultation

This is a report to the Council.

Chief Executive
Author of Report
Date of Report

Janet Paraskeva
7 September 2005

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Corporate issues

Appointments to external organisations

As Council Members will be aware, I have recently accepted two non-executive positions, one to the Consumer Council for Water (WaterVoice) and the other to the Serious Organised Crime Agency and that work will begin in April.

Next May I will be 60 and should be retiring. However, in a formal agreement with the Society I have declared my intention to delay my retirement date (probably until the end of next year) so that I can continue to see the Society through the immediate post-Clementi changes and the introduction of the expected Bill into Parliament and ensure that the successor senior officers of the Society, RegCo and Consumer Complaints Board are properly in place.

I want to make clear to Council that my acceptance of these non-executive roles, which I am undertaking in my personal capacity, will in no way detract from my commitment to my work as Chief Executive of the Society at this time of transition.

Equality and diversity

Law Society Diversity Access Scheme and Bursary Scheme

A total of 24 students have been assisted this year through the Law Society's Diversity Access Scheme and Bursary Scheme.

11 students received a scholarship to cover their course fees for the Legal Practice Course (9 students) or the Graduate Diploma in Law Course (2 students) through the Diversity Access Scheme. Applications under the Scheme increased in the second year of the Scheme by over 150% with a total of 103 applications being received. The applications were short listed and applicants interviewed by a panel which included members of the Council, the Standards Board, the Training Committee, the Equality and Diversity Committee and the Legal Practice Course Board. The final selection meeting was chaired by the Vice President Fiona Woolf. The Scheme was supported this year by the College of Law and BPP who were able to offer free course places to 6 of the students. An awards ceremony for the successful students will take place on 10 October.

In addition to the Diversity Access Scheme, 13 students were supported by the Law Society's Bursary Scheme which aims to assist students who have exceptional financial need. A total of 143 applications were received under the Scheme and were short listed by the Bursary Sub Committee which was chaired by Jo Larbie. 3 of the successful applicants received full funding for their Legal Practice Course whilst the remaining 10 students received a contribution towards their course fees.

BSN Diversity league Table

The Black Solicitors Network aim to produce a Diversity League Table of the top UK 100 firms. In July a questionnaire was sent to top 100 UK firms to gain statistical data on the numbers of ethnic minority trainees, paralegals and fee earners employed within their practices and to collect information about their recruitment practices. The BSN held two meetings giving firms the opportunity to ask any questions and engage in the methodology. Reed Smith, an International Law Firm, hosted the most recent seminar on 27th July attended by Andrew Holroyd.

BSN Mentoring Scheme

The BSN is due to launch its mentoring scheme in autumn 2005. The training for mentors will take place on the 6th September and the 20th September. Herbert Smith will assist the group by hosting and delivering a tailor-made training for BSN mentors.

London Bombings Legal Helpline

About 100 calls have been taken by Practice Advice Service so far from injured victims and the families of injured or deceased victims. Details of the cases are made available to the firms on the pro bono panel who make contact with the clients. The clients receive advice in areas such as Criminal Injuries Compensation Scheme applications, probate, insurance and death certificates. The acceptance of new cases by the panel of about 30 law firms has been very prompt.

Risk Management

The work of the Transition Programme is identifying potentially significant risks to the Society. As a result, the Risk Register is being updated and will be brought to Council once the Main Board has had an opportunity to consider the revisions.

Web development

A programme of essential upgrades of our website has continued, with the upgrade of the core web application (Websphere) and further preparatory work on the upgrades to Autonomy, the Society's main search tool. A package of improvements to the Find a Solicitor service has been implemented, including the capacity to display Overseas Corporate Practices and various types of regulated principal.

Work is underway on changes to Corporate Business to accommodate the new regulatory boards, a simplified system for the publication of corporate papers, and the requirement to make public papers available on the internet site; the Code of Conduct (the replacement for the online version of the rules of professional conduct); a further set of changes to Find a Solicitor to accommodate the requirement to show the relationships between practices (e.g. trading names).

The sites have conducted successful promotional campaigns dealing with Stamp Duty Land Tax and legal aid, among others, and assisted the Society in its swift response to the London bombings by providing a channel for the pro bono advice line.

We are also developing functionality to allow for discussion forums, and on line consultations with members.

Report against corporate plan objectives

To provide leadership and support to help the profession to embrace change

E-Business

Work on Home Information Packs continues to be an important aspect of the work of the E Business Unit. The Taskforce established by the Main Board in June and chaired jointly by the President and Helen Davies, held a preliminary meeting on 28th July and its first meeting of the full committee on 5 September. The role of the Taskforce will be to set the strategy for the project and to coordinate the work of a number of existing Law Society groups dealing with a number of interrelated aspects. The Regulations are due to be laid in September and the date for the introduction of HIPs continues to be "as early as possible in 2007", despite widespread misgivings by stakeholders and the Law Society of the viability of this target.

Members of the Conveyancing & Land Law Committee sub-group on Home Information Packs and Law Society's E-Business Unit staff continue to participate in the various sub-committees at the ODPM to comment on the draft Regulations, agree the contents of the packs, design the role and regulation of Home Inspectors who will produce the Home Condition Report, and to take forward work on implementation. Work is continuing to develop a Law Society endorsed solution to enable solicitors to participate in the provision of packs.

E-business events are being planned throughout the Regions in the autumn along with an e-business component for a series of Legal Aid seminars. The Unit will launch an electronic e-business newsletter in the autumn and will be setting up regional IT networks with practitioners and IT specialists in firms.

The Electronic Law Committee is revising its existing guidelines on the use of e-mail by solicitors and is setting its strategic objectives for 2005-06.

Our response to the consultation on the introduction of an 'e' Lexcel practice management standard will be published in September. The standard will be tested by introducing it initially on a voluntary basis.

Liaison continues with the Land Registry's E-Conveyancing Task Force. The first of a national series of nine one day conferences was held in London on 1 September with over 200 delegates. The programme includes speakers from the Land Registry with updates on the Chain Matrix and the Land Registry's other proposed services. An exhibition of software providers and other IT solutions will ensure delegates are briefed on the IT requirements their firms will need to have to take part in e-conveyancing. Delegates will have the opportunity to complete a workbook to take back to their firm which will assist them to identify their IT capability and readiness for e-conveyancing.

Law Society support to recognised groups towards moving to opt-in basis for membership with effect from 1 January 2006

In accordance with the Recognised Groups Agreement the Law Society has undertaken a project to assist the groups towards opt-in membership. The project involves agreeing a high level project specification with the groups, identifying potential suppliers, drafting invitation to tender, inviting and

evaluating tenders and selecting a possible supplier. The next steps are: to issue a contract to the supplier and to verify each group's requirements with the named representatives of each group. However, before contracting a supplier it might be wise, in view of the post-Clementi reforms, to review if this is still the right direction to follow. The Representation Board Sub-Group on Groups is being asked to note the progress and review the direction of this project in view of the development on post-Clementi reforms in the Law Society. The Sub-Groups will be asked to consider if in view of the changes the date for the implementation of opt-in membership might be postponed from 1 Jan 2006 to 1 Jan 2007 as by this time the status of future relations between the Law Society and groups recognised by it should become a lot clearer.

2006 Support to the Groups

A Representation Sub-Group, comprising Roger Bowden (Chair), David Merkel, Christopher Palmer and David Willis, is due to meet on 9 September 2005 to consider applications for 2006 funding and support from Recognised Groups. Detailed analyses of the groups' bids and accounts have been prepared to assist the sub-group in its deliberations. The Representation Board has also asked this sub-group to make recommendations with respect to the shape of future relations between the Society and the groups recognised by it. An internal audit of financial and non-financial support to the groups is currently in progress.

Copyright Licensing

We have been in discussion for some time with the Copyright Licensing Agency (CLA) about the specialist needs of law firms. A meeting is scheduled for 16 September between the Law Society, the CLA and the City of London Law Society in order to drive forward negotiations on the terms of a new Copyright licence designed to meet the needs of law firms.

To improve the quality of services provided by solicitors to consumers by settling, maintaining and enforcing high standards of training, professional development and practice

Training Framework Review

The third consultation on a new training framework was published at the start of April. The closing date for responses was 8th July 2005. During the consultation period a series of events was held around the country to which local law societies, training establishments, trainees and Council members were invited. A separate series of events was held for providers of qualifying law degrees, Legal Practice Courses and Professional Skills Courses.

211 written responses to the consultation paper were received, including 56 from firms, 56 from course providers, 24 from local law societies and 23 from groups and networks representing specific interests.

The Training Framework Review Group members each received copies of all of the responses.

A report will be made to the Standards Board at its October meeting and, before that, to the Training Committee when it meets at the end of September. In line with the Council's resolution of 24th February 2005 it is intended that a report will then be made to Council at its December meeting. Also in line with the Council's resolution, the paper to Council will include any views of the shadow Regulation Board. It is intended that a summary of the responses to the consultation should be published after the Standards Board meeting.

In the meantime, and in light of the responses to the consultation paper, the review group is concentrating on developing proposals to

- enhance the value of work-based learning, and to introduce greater rigour into the assessment of trainees' performance in practice.
- introduce new, centrally set and marked assessments on conduct and ethics and on financial and business skills to be passed prior to admission.
- allow greater flexibility with regard to the design and delivery of Legal Practice Courses.

Code of Conduct

The Law Society's Code of Conduct is under consideration by the Lord Chancellor's Consultative Panel. The Panel has set up a working party to consider Rules 1 and 2 and the working party has made a number of suggestions for change. The Policy team have drafted some amendments to the guidance to the rules for the Panel to consider at its meeting at the end of September. The Policy team are involved in a comprehensive internal training programme on the Code, for Ethics and other Law Society staff. The Code has also been published on the Law Society's website so that the profession can be aware of the Code's contents and begin to familiarise itself with the rules.

New Practice Rules 16D (conflict of interests) and 16E (confidentiality and disclosure) - made by Council in September 2004 - have been considered by the Panel which has published its advice, recommending many changes. The advice, together with the Law Society's response, appears on the Law Society's website. There is no indication, as yet, of how the Lord Chancellor will deal with the advice and response.

Practice Standards

The Practice Standards Unit (PSU) is currently on track to meet its corporate objective of undertaking 1,200 visits in 2005. 187 visits to firms to review compliance with Practice rules 13 & 15 including their complaints handling processes were carried out during June and July 2005. A further 129 visits have been planned for August and September.

The Unit delivered a further three Client Care seminars in June and July and eight are scheduled through to the end of the year. The regional seminars continue to be based on the evidence of the key issues arising from the PSU visits.

Professional Ethics Guidance

The demand for the service continues to increase, with the half yearly figures (January to June) showing an increase in both the written and telephone enquiries received.

2004	Written enquiries	2,116
	Telephone enquiries	29,260
2005	Written enquiries	2,330
	Telephone enquiries	30,224

The Unit continues to use the “question of ethics” column in the Gazette to alert solicitors to emerging issues. In response to a number of enquiries relating to introductions and commissions under the new financial services regime, tailored guidance dealing with these issues was produced.

The Unit has assisted in drawing together guidance for solicitors who are looking to agree a “full and final” settlement with clients where they are dealing with complaints of IPS. This is now being taken forward by the Compliance Board.

The use of the Liaison group (with representatives from Ethics, PSU, Compliance, CCS and Adjudicators) to identify and agree a common approach to problems, or as a means of identifying new issues, has been invaluable as a means of sharing information across the Society.

An information area on the website for accountants has been developed. This area contains the Solicitors Accounts Rules, the accountants report form, and frequently asked questions about dealing with solicitors accounts. The address is accountants.lawsociety.org.uk. The address and details of its contents have been given to the accountants’ professional bodies, and the Institute of Legal Cashiers for publication to their members. It is hoped that use of this site will reduce the number of accounts queries coming into the Guidance team.

Lexcel

The Lexcel office has continued organising Lexcel seminars and focus groups throughout the country. Focus groups have now been organised for the North East and London, so that 7 regions now have regular Lexcel Focus group meetings. There will be further Lexcel seminars this autumn in Preston, Manchester, Liverpool, Wolverhampton, Newcastle(x2) and Cambridge(x2). The Lexcel office has also undertaken to attend a series of 10 breakfast meetings, organised by an assessment body and jointly promoting Lexcel & Investors in people.

New research has highlighted the benefits available to law firms from obtaining Lexcel, the Law Society's Practice Management Quality Mark. The research, undertaken by Sir Stephen Lander, Independent Commissioner to the Law Society, surveyed law firms who held either Lexcel or 3 other quality marks (Investors in People, ISO9000 and the Legal Services Commission's SQM). The survey had responses from around 175 Lexcel firms, and 93% described Lexcel as being useful or very useful - this is a higher satisfaction rating than for any of the other quality marks surveyed.

The research found the following:

- 81% of Lexcel firms found Lexcel to be beneficial re client care
- 79% found Lexcel to be beneficial re risk management
- 75% found Lexcel to be beneficial as a business improvement tool
- 69% found Lexcel to be beneficial in relation to insurance premiums

The Lexcel office recently repeated its promotion of Lexcel to key regional referrers. Client-targeted fliers were sent to all CAB's, All Business Link and Business Eye, and all Law Shops in England & Wales. The mailing produced a good response from CAB'S, enquiring as to accredited firms in their area, and from Business Link.

The Lexcel office, in conjunction with Tim Hill, E-business Unit Manager, has conducted a consultation exercise on possible IT and E-Business requirements for the next revisions of Lexcel, and the possibility of an additional 'E-Lexcel' standard. The exercise produced more than 60 responses. An analysis of the results of the consultation will lead to a formal response in September, further discussions, and a pilot of new requirements.

The Latest Figures for Lexcel are as follows:

Lexcel figures	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05	Jul-05
% of Profession Awarded	5.6	5.7	5.9	6.0	6.0	6.0	6.0
% of Private Practices	4.2	4.4	4.5	4.6	4.7	4.7	4.7
% of Local Authorities	27	26.7	26.5	26.7	26.9	26.9	26.9
Total Number of Applications	575	579	585	592	598	598	600
Total Number of Awards	511	524	536	543	548	550	550
Total Number of Commitments	270	273	279	278	286	285	286
Breakdown of figures:							
New Applications	0	4	6	7	6	2	11
New Awards	14	13	12	7	5	2	9
New Commitments	8	7	9	2	8	10	6
Number of Information packs sent	25	41	39	13	44	21	43

Professional Indemnity

The Solicitors Indemnity Insurance Rules deal with open market insurance and include the minimum terms and conditions that must be included in qualifying insurance policies. The Solicitors' Indemnity Rules primarily deal with the run-off of the Solicitors Indemnity Fund.

The Rules for the indemnity period commencing on 1 October 2005 were made by the Council in May and have received the concurrence of the Master of the Rolls. The significant changes this year include an increase in the minimum sum insured any one claim from £1m to £3m for 'relevant recognised bodies'. This replaces the requirement for such recognised bodies to effect additional insurance of either £0.5m on an each and every claim basis or £2m in the aggregate. For all other practices the minimum sum insured for any one claim has increased from £1m to £2m.

The definition of 'one claim' has been reworded and the minimum terms and conditions have been amended to make it clear that more than one qualifying insurer can underwrite a policy either on a co-insurance or layered basis.

The Professional Indemnity Section continues to deal with policy and guidance in respect of both sets of the Rules and to service the Indemnity Insurance Committee and the Law Society/Insurers Liaison Committee.

To deliver an effective consumer complaints scheme

CCS July Performance

During July the conduct and service caseload which includes the work of both the CCS and CAI fell by 105 to 6063. The CCS and CAI received a total of 1449 new complaints and closed 1554.

The Contact Centre answered 5926 calls, with an average time to answer of 16 seconds and continues to perform at a high standard. Only 1% of calls for the first 7 months of 2005 been abandoned, this is well within the 'less than 5%' target. Service levels for the Helpline have averaged 85% for the first 7 months of 2005 again well over the 80% target.

Referrals to the LSO remain steady at 7% for the first 7 months of the year. The LSO satisfaction rate increased in July to 66%; the year to date position is 65%.

Customer satisfaction rates with the service provided slipped to 55% in July. The year to date average is 58%.

CCS August Performance

For the first time this year Work in Progress has increased and has done so by 220 cases. This wipes out most of our gains from June and July.

The headline figure hides a good performance from the teams who closed more cases than forecast, despite 11 members of staff leaving during the month and the impact of the main holiday period. However, receipts were almost 300 more than forecast. We believe this level of receipts is a blip although there is an increase in the number of complaints related to the Coal Health Compensation scheme arising from a great deal of activity by one or two MPs to alert their constituents to the possibility that fees were improperly withheld by their solicitors.

We alerted the office of the LSC to what was at that stage an expected difficulty at the last regular monthly meeting.

To maximise the relevance and effectiveness of our services to the profession

Sections

The Probate Section held a very successful annual conference in Birmingham on 7 September, attended by 200 delegates. The Section is launching a monthly electronic Update in September to complement its well-established PS Journal which is published 10 times a year. The 2005-06 Winter Seminar programme has now been agreed and will feature 19 seminars around the country.

The Law Management Section has a full programme of events throughout the autumn including a Finance Forum, residential Management Development Programme, Young Solicitors' Management Forum, Business Development Forum and Lexcel Quality Forum. The 2005 Financial Benchmarking Survey will commence in September with a more extensive questionnaire and the option of on-line completion being considered. The Section has added a Marketing Toolkit to its range of toolkits which include the Internet Toolkit and an HR Toolkit, all available on-line.

The Civil Litigation Section's first annual conference will take place in London in November with the Lord Chancellor giving the keynote address and Lord Justice Neuberger speaking about civil justice and IT. A series of regional events is planned in the lead up to the conference at which members of the Section's Executive will discuss key current issues and invite questions which will be put to the Lord Chancellor at the annual conference. These events will also provide a further opportunity to market the section and to set up regional networks.

The Property Section has held a number of very successful regional seminars on Home Information Packs and these will continue to take place throughout next year to keep practitioners fully up to date with developments on HIPs and their implementation some time in 2007. The first two joint Land Registry events took place in London and Cardiff on 1 and 8 September. The annual conference will take place on 27 October in London and Yvette Cooper,

Minister responsible for Home Information Packs, has been invited to address the conference.

Groups

The **Solicitors in Local Government** held a Strategy Weekend in Birmingham to discuss the year's objectives and to plan their 3 year rolling programme. There has been much work on their new website www.slgov.org.uk including an interactive forum, calendar of events, information on branches and special interest groups, consultation exercises and guidance

Their new magazine goes from strength to strength with a new Law Society page and an increase in practice relevant articles sourced directly from local government solicitors.

They provided a response to the Framework Review for Trainees and have been working closely with the Law Society on their new representative role and how local government solicitors and trainees need to be represented within the "new Law Society."

They have undertaken an organisational restructure. Their new "umbrella" structure forges closer working relations with their training unit, LGG Training and their Trust to improve the delivery of targeted representative services.

The launch of a new London **Solicitor Sole Practitioners** Group was very successful, attended by over 50 sole practitioners. The London group hopes to offer a forum for discussion, CPD events and networking opportunities. A new Surrey group is to be launched in September.

They have produced Management CPD guidance for their members and continue to focus on practice management, considering more regional seminars following the success of the financial seminars earlier in the year.

They provided a response to the Framework Review for Trainees and other consultation papers. Work continues on representing members in e-conveyancing and HIPs forums, the increases in professional indemnity insurance, lenders discrimination, and a range of practice relevant issues. They also remain very active in offering views on the Clementi reforms and the role of the new Law Society.

Pastoral care

Parveen Sharma has met with a range of professional services organisations including the BMA, BDA and the Royal Pharmaceutical Society, meetings with the Solicitors Defence Service, ICAEW, RICS are planned during September. These meetings are designed to gain an understanding of pastoral care and/or personal support services offered by these organisations and the way they are financed. It is anticipated that this information will assist the Law Society in enhancing its pastoral care and/or personal support services to its members. A report of how the Society's pastoral care service provision

compares with the services provided by these professional services organisations will be prepared once all the meetings have been completed.

India

The next round of negotiations about liberalising the Indian market will take place in mid-September. These talks are at present being conducted on a profession to profession basis, with the International department providing the secretariat. The Lord Chancellor is planning to go to India in October to add weight to this lobbying effort.

China

The Chinese Ministry of Justice has asked the Law Society officially to join the supervisory board of the proposed Sino-British College of Law which the MoJ is proposing to establish with the College of Law. The text of the agreement is currently being examined and a final decision on the Law Society's position will be taken in the autumn.

Industry Briefing Course

Between 4-8 July, the Law Society hosted thirteen trade and commercial officers from British Embassies and consulates around the world. They attended a week long training course that was designed by the Law Society, the Bar Council, the UKTI and DCA, which involved presentations from more than 20 firms. The highlight of the week proved to be a visit to Birmingham, co-hosted by the Birmingham Law Society and the Law Society's regional office which showcased the growing importance of regional centres of legal practice through a visit to Birmingham. During the week a guide to the export of legal services, aimed at British Embassies and High Commissions, was also launched.

To increase public confidence in the Law Society's regulation of solicitors and improve public perception of solicitors as providers of high quality legal services

Customer Guides

Two new customer guides - on probate and asylum – have been mailed to firms, law centres, public libraries and CABx. The asylum guide was also mailed to hearing and induction centres. To date the mailing of the new guides has generated orders for more than 1 million leaflets. Both guides are available in a range of community languages and alternative formats. Quick download versions are also available on our website.

More than 3.5 million customer guides have been distributed since the series was launched in 2003.

Media Work

The establishment of the Society's London Bombings Legal Helpline was covered in the national papers. The story took off when it emerged that

claims management companies were targeting the families and victims of the bombings. The President was interviewed on four television news programmes, eighteen local radio stations, Radio 5 Live and the Radio 4 *Today* programme. As well as highlighting the existence of the helpline and the fact that over 20 firms of solicitors have offered free legal help, the President was also able to make the case for regulation of claims farmers

Since late June, *The Times* has published numerous reports about alleged impropriety by solicitors involved in the scheme to compensate miners for work-related diseases. This coverage has inevitably been followed up by other national papers and by media in Wales and the north of England. While the Law Society has been seen to have acted in the public interest by alerting the police and other relevant agencies to concerns, the sensitive detail of the numerous investigations it is carrying out has been successfully safeguarded.

To increase our influence in the development of law and legal services policy in the public interest, aiming to maximise justice for all

Stamp Duty Land Tax Campaign

The SDLT campaign which began in May has continued its momentum. Over 4,000 solicitors have now signed up to the campaign which aims to put pressure on government to improve the administration of the SDLT regime. As well as gaining extensive media coverage in the trade and national press the campaign has also formed the basis for questions put to the relevant minister in the House of Commons Finance Bill Committee and is specifically endorsed in a parliamentary EDM which has gained multi-party support.

As part of the campaign to reform the administration of Stamp Duty Land Tax, we drafted and had tabled an Early Day Motion on the subject. At the rising of the House it had attracted 39 signatures from MPs. We hope to get many more when House returns in 10 October. The issue was also raised by Mark Francois MP, on our behalf, during the Commons Committee stage of the Finance Bill.

Other Campaigns

In recent months, and building on the example of the SDLT campaign, the Society has begun to engage with the profession on a number of other issues of concern to practitioners in specific specialisms such as:

- 'Faster Family Justice' - Consulting family law practitioners and asking them to complete a questionnaire detailing the delays they are encountering in different kinds of family law matters and in which courts the delays are most severe. The results of the questionnaire will inform the Society's discussions with the President of the Family Law division.
- 'Stop retrospective funding' – a campaign asking immigration law practitioners to support the Society's campaign to persuade government

that retrospective funding in immigration appeal cases is an unfair denial of access to justice for a particularly vulnerable group retrospective funding in immigration cases

- 'Defending legal aid' (endorsed by LAPG, CLSA, LCCSA) – asking legal aid practitioners detailed comments on their views of the government's current Price Competitive Tendering plan. The comments received will feed into the Society's submissions to the Carter Review. Comments have been received from all types of legal aid practices and have provided strong evidence for the Society's position that the PCT plans will have particularly negative impacts on: Black and Minority Ethnic practitioners; certain geographical areas currently not served at all by legal aid practitioners or by smaller firms which may not survive PCT; and recruitment and retention of legal aid practitioners in the future.

We have also initiated a 'Jury Trials' campaign aimed at the whole profession on this key issue of principle, asking the profession their views on the possible restriction of jury trials in complex fraud cases. This campaign will strengthen our lobbying activity when the issue is brought before parliament in the autumn.

American Bar Association and Canadian Bar Association Annual Conferences

The Law Society was represented as usual at both the American Bar and Canadian Bar Association conferences over the summer. During these conferences the President spoke at sessions on money laundering, Clementi and the independence of the judiciary. Numerous meetings were also held at official level with various section and other organisational components of these bodies in order to learn from and use their experience to inform the Law Society's own transition process.

EU issues

The Law Society has continued to lobby over the summer on the proposed services directive, which still contains provisions which would be unhelpful to the Law Society's ability to regulate solicitors outside of England and Wales. We have drafted a number of amendments which have been submitted by MEPs. It will become clearer in the autumn whether this directive is going to progress any further, given the general political mood against it.

The European Commission's Competition Directorate General brought out a report on 5 September on the current state of play in the liberal professions on competition. This report identified the UK, along with Denmark and the Netherlands as 'making good progress' in reform of the legal and other sectors. All other member states were reported as making minor or no progress.

Libya

The Law Society has set up a working group of solicitors and financial services experts at the request of the Libyan Minister of Planning in order to

review the Libyan foreign investment framework, particularly in the area of banking law. The Foreign Office has agreed to meet all of the costs of this group.

Work in Parliament

Parliament rose for summer recess on 21 July and will return on 10 October

The Law Society continued to lobby on bills of interest to the profession and clients. This included producing amendments for Commons Committee stage of the Identity Cards Bill (concerning issues such as disclosure without consent, costs, and details of registration), and for Lords Committee stage of the Charities Bill (covering issues such as the power of trustees and the ability to amalgamate).

We briefed peers for Second Reading of the Children and Adoption Bill, and MPs for the second readings of the Racial and Religious Hatred Bill, the Immigration, Asylum and Nationality Bill and the Violent Crime Reduction Bill.

We also raised our concerns about Muslim financial products in the Financial Services (Land Transaction) Bill. These products look like mortgages, but provide the house-buyer with little real protection.

On 11 July we held an information session jointly with the Bar and Justice on retaining juries on fraud trials. The session was chaired by Labour MP, Bob Marshall-Andrews QC. Because of time-table clashes it was not well attended, and we hope to repeat the exercise in October, by which time the regulations removing the requirement to have juries in such trials ought to have been tabled. An EDM has been drafted and will be tabled at the same time.

The Society also met with the special adviser to the Home Affairs Select Committee to discuss the up-coming inquiry into anti-terrorism.

Representatives of the Society will attend each of the forthcoming party conferences. A number of meetings with ministers and spokesperson have already been arranged, as well as receptions at the Conservative and Liberal Democrat conferences. Our objective will be to lobby on a range of current issues including issues surrounding the forthcoming white paper on the regulation of legal services. The centrepiece of our party conference activity will be a special fringe event at Labour Conference which the Society is co-sponsoring with Institute of Public Policy Research (IPPR) and which will feature both the Home Secretary and The Lord Chancellor discussing the balance between human rights, the rule of law, and the need to counteract the threat posed by terrorism.

Media Work

The Society's response to the Government's fairer deal on legal aid announcement was covered in an editorial in *The Guardian* which compared the state of the legal aid system to the worst aspects of the American health system with access only for the very poor. In *The Daily Telegraph*, we said spending on a few criminal cases had "decimated" civil legal aid. We

publicised a case study that had emerged from our recent legal aid seminar, which highlighted that owing to the shortage of housing advisers, a man of 62 had to travel by bus from Merthyr Tydfil to London to get advice from solicitor Russell Conway when threatened with eviction by his landlord. In *The Daily Mirror*, Mr Conway said; "Poor people are making tremendous sacrifices so they can pay to travel for legal aid advice." Law Society President Kevin Martin said; "Fewer people are being helped. Legal aid is in crisis."

The Financial Times covered the Law Society's reaction to the Government's proposed new anti-terror powers. We welcomed the Government's decision to allow the admissibility of phone tap evidence. However, we expressed deep concern about the proposal to extend powers of detention in terror cases to three months. The Society said that the current fourteen days provided police with ample time to gather evidence and they already had a wide range of powers to control and monitor suspects' behaviour.

The Times law section, several legal journals and regional papers profiled incoming President, Kevin Martin, noting that one of his priorities was to focus solicitors' minds on why they needed the Law Society to represent their interests. The most widely used quote was: "It is inconceivable that a profession of this size will not need to have a national overarching representative body - and equally unlikely that the body will be anything other than the Law Society. But we don't have a divine right: we need to establish that we are the right body. That's the key thing for the next 12 months."

The Society's campaign to persuade the Revenue to improve the administration of Stamp Duty Land Tax continued to achieve coverage, particularly in *The Daily Telegraph* as well as specialist property publications. The Society rebutted suggestions by the Revenue that the problems were caused by errors on the part of solicitors, pointing out that we had many examples of where forms had been submitted correctly but had been rejected owing to faulty scanning. The Society emphasised that it wished to work with the Revenue to find solutions.

Carter Review

The Government has now announced how it intends to take forward the work started by the Fundamental Legal Aid Review.

The principal measures announced by Lord Falconer included:

- Setting a new direction for the system following the first stage of the Government's fundamental review of legal aid.
- Implementing reform of the management of larger and complex cases, such as murder and fraud.
- A series of immediate proposed steps to reduce the amount spent defending the highest cost criminal cases.

- Taking forward the fundamental review with a detailed plan to change the legal aid system, together with improvements in the way fraud cases are brought to justice and child care cases are handled.

The Law Society has endorsed the Government's aim of re-distributing legal aid money saved on very high cost criminal cases through better case management to solve the legal problems of the most vulnerable in society. While the Law Society continues to argue that the legal aid system requires further investment to ensure true access to justice, it also makes sense to make more resources available for civil legal aid by tackling waste in the criminal justice system.

The Society has expressed disappointment that the terms of reference for the review did not set out any strategies to tackle the serious decline in take-up of legal aid as a career. We have argued that the Government needs to improve incentives for people considering legal aid careers, including the expansion of the Legal Services Commission's grants to trainees scheme.

The Law Society will be an active partner in the Review and will assist Lord Carter's team to examine the current legal aid system and help them to identify how costs drivers impact on the efficiency of firms. Without a proper understanding of all of the external pressures on suppliers, the Review team will not be in a position to produce a plan that will deliver its aims of a more proportionate way of spending legal aid, while ensuring reasonable client choice and sufficient quality.

The Society has established a co-ordinating group to ensure that the wider profession and practitioner organisations are kept fully informed of the work on the Review and the Society's contribution.

Price Competitive Tendering

Following the Law Society's response to the Legal Services Commission's proposals in May, we did not expect the Commission to respond formally before the summer and it was anticipated that informal discussions would follow.

The President wrote to the Lord Chancellor asking him to suspend proposals for Price Competitive Tendering in London pending the outcome of the Carter Review. It also asked that the package of crown court cuts, planned for implementation in October, should be deferred until the effects of other policy changes which could yield savings were assessed.

Lord Falconer has now confirmed that there will be no move to invite tenders for criminal legal aid contracts until after the conclusion of the Carter Review. Furthermore, Carter would be examining the PCT proposals and his views would influence the future shape of any such proposals. He would also take on board the outcome of LSC research into the impact of PCT on black and minority ethnic-run firms.

The Society has requested that reassurance along these lines should be widely communicated to the profession as soon as possible to allay fears about the scope of the Carter Review. An article from Lord Falconer clarifying the interrelationship between the Carter Review and PCT is due to appear in the Gazette on 8 September.

CLS Strategy

The CLS Strategy was published in July and represents the Legal Services Commission's Strategy for the Community Legal Service (CLS) for the next five years. A post-consultation Strategy paper will be published in Winter 2005/6. The paper states that the core objective in promoting the availability of legal and advice services is to protect and promote people's rights. The paper highlights the need for change, the need to work together and the difficulties in funding.

The Commission has identified three priority areas for its work in developing CLS services

Expansion of the current national telephone advice services to widen access to legal advice services and achieve greater value for money.

A pilot of Community Legal and Advice Centres has begun delivering a seamless service from basic advice and assistance to specialist representation in the highest courts. As a minimum, the Centres will cover services in a range of social welfare categories, particularly Debt, Housing, Welfare Benefits, Community Care and Employment. They will have effective links with suppliers in other specialist areas of law and over time may develop further to provide some of these services themselves. Funding for the Centres could be related to achieving specific outcomes for clients.

Strategic action to address the need for advice by raising awareness of issues through producing relevant publications and engaging with government and local communities; negotiation by engaging with service providers at a senior level, and funding litigation where other approaches fail, including identifying and bringing test cases.

The Society will respond to the consultation and the separate policy papers highlighted in the Strategy.

CDS Direct

The Commission has now accepted the arguments put forward by the Society and has decided to delay the implementation of the CDS Direct pilot until October.

Mediation Awareness Week

As part of National Mediation Awareness Week being run by the DCA in October, the Law Society is delivering 7 seminars throughout the regions during October. The seminars aim to raise awareness amongst the solicitors about changes to the law which affects the approach parties should take to mediation in order to avoid adverse costs consequences. They will also

explore how mediation can be used within solicitors' practices in finding the best solutions for their clients with civil disputes. To further support the DCA's work for Mediation Awareness Week, the Law Society has produced a detailed seminar toolkit which has been circulated to all 60 courts taking part in Awareness Week and all local law societies to encourage further awareness of the seminars to be held across the country. A number of courts and mediation groups have confirmed they will be holding local events using our seminar toolkit.

Asylum seminar

The Law Society held a joint event with ILPA on changes to the asylum system. Between 80 and 90 people attended to hear Freda Chaloner of the Home Office and Kathryn Cronin of 2 Garden Court speak. Alison Stanley, Chair of the Immigration Law Committee, chaired the meeting. The meeting was well-received with one attendee commenting that "these valuable meetings are very much appreciated by us".

Responses to consultations

We submitted a number of responses to consultation papers, including to the HMRC consultation paper on reducing the administrative burden of the tax system on small business; to the European Commission on shareholders' rights and the Financial Services Green Paper and to the European Commission on Financial Services and Shareholders' Rights. We responded to the Green Paper on the future of adult social care; to the Home Office consultation on new grounds for exclusion or deportation from the UK designed to cover people who are an indirect threat to national security and to the DCA consultation on revision of the statutory legacy rules.

We also responded to proposals of the European Parliament and The Council to establish a European Small Claims Procedure. The Society's response advocated that the English/Welsh small claims system should be adopted as a good model for any small claims system as the system proposed is far less simple than the current UK system. We responded to the DCA consultation on proposed regulations to control the release of frozen assets to pay defence costs in civil recovery cases under the Proceeds of Crime Act 2002, expressing concern that there should be equality of arms between the Assets Recovery Agency and the respondent in their respective abilities to instruct an appropriate quality of legal advice.

The Society responded to the Legal Services Commission's PSA6 initiative essentially expressing concern that no additional matter starts were available to target immigration need, and to the LSC's proposals for changes to the Criminal Supervisor standards in the Specialist Quality Mark, ensuring that the proposals flow from the outcome of these and are not introducing something new.

The Government published its response to the Joint Committee's report on the Mental Health Bill. The Government have made some concessions, such as including general principles on the face of the Bill and having exclusions from the definition of mental disorder. However they have rejected most of the

main concerns of the Committee such as the need to tighten the conditions for compulsory treatment.

Follow up to the G8

The Law Society was asked by the Attorney General to submit ideas for follow up to the G8 summit on Africa and particularly in the areas identified by Ministers of Justice as priority areas for activity – asset tracing, anti corruption and capacity building. A roundtable with various government departments, the Bar Council and the Law Society was held on 2 September and will be followed up on 14 September by a roundtable meeting with some of the African delegates at the Commonwealth Law Conference.