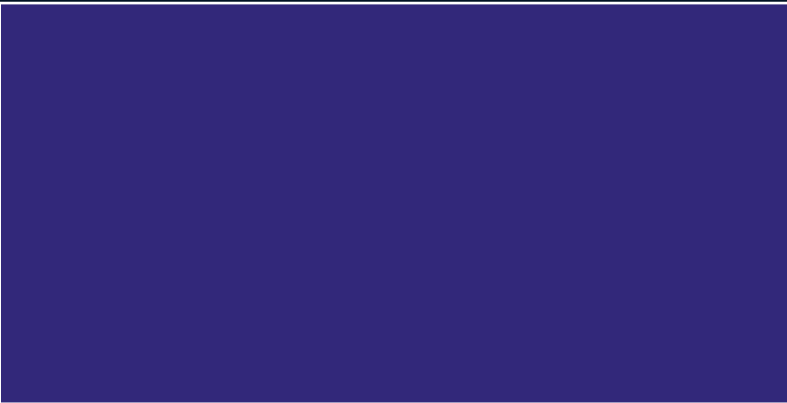


The Law Society

Representing and regulating the profession



The Law Society




The Law Society

Diversity Access Scheme – Diversity In Action

We want to ensure that circumstances do not prevent a talented individual from entering the profession. **You can help.**

If you can offer work experience opportunities, mentoring support or a financial donation, you can help to ensure that the next generation of lawyers is drawn from the widest possible range of backgrounds.

Visit our stand, ring us on 01202 311192 or diversityaccess@lssociety.org.uk to find out more.





Mission Statement

The Law Society will strive to guarantee:

to the public -

access to high quality legal services

to solicitors -

vigorous promotion of their interests

to society -

a leading voice on law reform

Foreword

I am privileged to be the President of the Law Society at a time of unprecedented change for the legal profession. The regulation of legal services is being reviewed, while the marketplace is being transformed. In a few years' time, the legal landscape could look quite different.

We know that the Society, and the profession, needs to change to reflect the demands of today's society and the modern marketplace. This document sets out our programme of change – a programme that will continue against the backdrop of the current regulatory review.

Our aim is two-fold. First, to improve our role as the regulator of the profession, acknowledging that self-regulation is not a right, but a privilege that has to be earned. Secondly, to ensure that we are representing the entire profession – all solicitors, no matter where they work or what type of law they practise.

These objectives rest on a belief that profession-led regulation is the best means of enforcing high

standards in the legal profession. Solicitors and barristers – and the systems for regulating them – must remain independent of the State. This independence is a barrier that protects the rule of law, and the freedoms on which our democracy is based, from political interference. Undoubtedly the current structure needs to change. If we are to raise the standard of service we offer consumers, and reflect the changing nature of the legal marketplace, improvements must be made. But we need to ensure that the new framework reflects the view that the profession, in partnership with the public, is best placed to regulate solicitors.

I believe the Law Society is well placed to meet the challenges that face the profession – from the uncertain future of publicly funded legal work to increased competition – and I hope that this report will give you a better understanding of the progress that we are making.

PETER WILLIAMSON, President

Introduction

Solicitors are practising in a marketplace that is changing fast, and in which consumers are becoming ever more demanding – and rightly so. Three years ago we embarked on a series of practical steps that the Law Society would take to improve self-regulation and champion the profession. That has meant changing the culture of the Society, not just processes and mechanisms. I said at the time that, like a supertanker, it would take two to three years before there was any noticeable progress. So three years on, it is time to take stock. How have we done?

This appraisal comes at a time when the Society and its roles are being scrutinized by Sir David Clementi as part of his Review of the Regulation of Legal Services in England and Wales. So it makes sense to consider our progress in the two main functions of the Law Society – our role as regulator and representative of the legal profession.

First, regulation. Every profession takes pride in its ability to set and police its own standards. What we said three years ago was that we wanted to involve the public more in the regulation of the profession. Today, solicitors work with lay members of the Council, Boards and Committees to set the standards of entry to the profession and of practice, to ensure compliance with those standards and to oversee the handling of complaints from clients about the service they have received.

We also said that we would toughen up regulation. A no-nonsense approach is vital for the health of any profession. There are very few solicitors who fail to meet the standards of honesty and fairness that the profession rightly demands of them, but we realised we need to act even more quickly and firmly when we come across them. Furthermore, the Practice Standards Unit is now up and running and is visiting firms across England and Wales, helping them to meet the challenges of modern practice and improve their service to clients.

To the public, good regulation is about the way that solicitors deal with complaints about service. Most are settled by firms as soon as clients raise them and this is the very best outcome. However, some 10,000 service complaints are made to the Society each year by clients who do not feel that their solicitor has dealt properly with their complaint. The handling of complaints is always a challenging responsibility and we are now establishing a new Consumer Complaints Service in order to focus more closely on consumer redress.

Effective regulation does come at a price. We have had to increase the Practising Certificate fee to ensure that our regulatory work is properly funded and can meet the challenges of diversifying practice and the complexities of doing business in the 21st century. The Council of the Law Society – what might be described as the parliament of the profession – has supported those steps at each stage.

We need now to think about different ways of regulating which more closely meet the needs of



today. It is no longer the case, in a highly diverse profession, that one size of regulation fits all. We will need to consider carefully models for differential regulation and how we might apply them to practices as different as City and High Street firms. The Clementi review may give us an opportunity to begin to grapple with these questions.

Of course, regulation is just half the story. The Society also represents the profession, and we want to do more to ensure that all solicitors, irrespective of where they work, feel that the Law Society is representing their interests.

Of the work in which we have been involved over the last three years, a major feature has been our campaign to secure the future of publicly funded legal services. Access to justice underpins a civilised society, but we are seeing the emergence of 'advice deserts' – places where there is little or no provision of publicly funded legal advice on, for example, housing or family matters. Our campaign has raised the prominence of this issue, putting it on the agenda of Government and the media.

We have also campaigned overseas to open up foreign markets to English and Welsh solicitors. Law Society staff and Office Holders have lobbied governments – primarily those in Asia and the Far East, with notable successes in Japan and Korea – to allow solicitors to practise in their countries. This is an ambitious objective, but the rewards – such as the opportunity to practise in China and India, for example – could be immense.

This report looks at some of the things that we have done over the last three years. What might the future hold? Further change is essential if we are to keep pace with the new demands of the marketplace. That means we will have to think afresh about how we represent the entire profession, and the regulatory role we will play.

JANET PARASKEVA, Chief Executive

Representing the Pro

An effective representative body champions the views and interests of all its members, whom it consults on a regular basis.

Better law

The Law Society helps to shape and improve laws as they proceed through the legislative process. We make the case for the reform of existing legislation. We campaign for new laws to address specific issues and we regularly brief members of both Houses of Parliament on aspects of legislation under debate.

Sometimes these laws are of direct relevance to the legal profession; most, however, are laws that affect the public as a whole. Our activities cover a vast range of legislation, from the Finance Bill to civil partnerships, from housing to mental health.

In 2002, we responded to Lord Justice Auld's Review of the Criminal Courts. In November 2002 the Government published the Criminal Justice Bill, which contained many of the recommendations from Lord Justice Auld's report. The Society raised a number of concerns about the Bill during its passage through Parliament. A number of significant concessions were made by the Government in response to the issues raised by the Society and others, including dropping proposals to reduce the right to trial by jury, restrictions on the admissibility of a defendant's previous convictions and that the Law Society and the Bar Council should be consulted on any changes to PACE Codes of Practice. During the passage of the Bill the Society established close working links with the Criminal Bar Association, JUSTICE, Liberty and the Legal Action Group.

Another recent high-profile example is the Society's work in response to the Government's proposals for the introduction of identity cards. We have been active since the first consultation paper was issued in 2002 and most recently gave written and oral evidence to the Home Affairs Select Committee's inquiry. We also represented the interests of the profession and the public as the Anti-Terrorism, Crime and Security Act was developed. Following its implementation, we provided a commentary to MPs on the Act and evidence to the Committee of Privy Counsellors reviewing the Act and have briefed members of both Houses. We have also campaigned for changes to the law, most notably in seeking a comprehensive statement of rights for cohabitants.

We have increased our activity in Europe, influencing the development of EU policy. Our Brussels office, and the Society's Task Force on Money Laundering and Serious Fraud, lobbied the European Commission and the UK Permanent Representation to ensure that the new Directive on Money Laundering would not place any greater obligations on solicitors, and to protect legal professional privilege as far as possible. We also influenced amendments to the Directive at the European Parliament, and work continues on the third Directive. We are in close contact with EU officials working on the review of competition in the professions that is being led by Commissioner Monti and have been at the

Access to justice

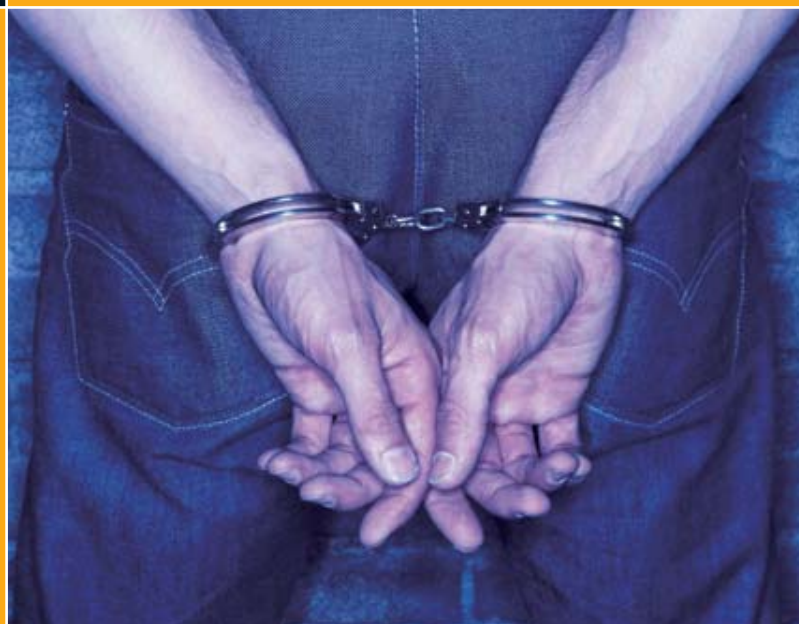
The Law Society plays a pivotal role in ensuring that everyone has access to justice. Solicitors play a crucial role by providing legal assistance to those who cannot afford to pay for help. The legal aid system – and civil legal aid in particular – has come under increasing strain in the past few years. This is mainly because the demand for criminal legal aid has soared, and the Government has paid for this by limiting the money available for civil legal aid. As a result, we are seeing the emergence of advice deserts – areas where there are few, if any, solicitors offering certain types of civil legal aid.

forefront of campaigning for a workable Establishment Directive that would reflect solicitors' interests.

We also contribute to the formulation of better law by intervening regularly in test cases in the higher courts where important issues of law affecting the profession and the public are being determined. For example, the Society's intervention in the *Hollins v Russell* case was instrumental in minimising the scope for technical challenges by insurers against the conditional fees scheme. Other interventions have included *P v P*, which brought greater certainty to solicitors and their clients about disclosure duties under the Proceeds of Crime Act.

We have made many contributions of this kind over the last three years and the Government now asks the Society for its views on issues on a more regular basis. We have worked with the Solicitor General to refine the Domestic Violence Bill and to address some of the problem areas. We were able to bring together criminal and family practitioners and tease out the issues.

We have worked with the Inland Revenue on seminars on the Stamp Duty Land Tax, with the Land Registry on e-conveyancing, with the Court service on e-mail schemes and with the Youth Justice Board on youth justice.



We have campaigned vigorously in the media and in Parliament to raise the profile of this issue, and to ensure that a new contract for legal aid solicitors (which addresses the current problems) is in place by 2007. We have won the agreement of the Treasury, the DCA, the Legal Services Commission and practitioner groups that we should be working towards an improved new system. Meanwhile, we continue to lobby strongly for improvements to the contracts for existing practitioners.

Access to justice has also become an international issue for us in the last three years. We have written over 150 letters campaigning for clemency for those on death row in over 100 cases. Through the American Bar Association, we have lobbied in the US against the death penalty.

We have also campaigned very hard on human rights issues - the rights of the prisoners held at Guantanamo Bay being a good example. The current President has been a tireless advocate of their right to a fair trial.

Campaigning for commercial solicitors

The legal profession makes a significant contribution to the UK economy. It accounts for £12 billion of UK earnings, and £1.6 billion of invisible foreign earnings. The Law Society works hard to ensure that solicitors work in a competitive marketplace in the UK, Europe and beyond.

Internationally, we have contributed to the GATS round of talks with the aim of liberalising important foreign markets in which English and Welsh firms wish to establish themselves. We have opened markets in Japan and Korea and are working hard to get access for English and Welsh law firms to the enormous Chinese and Indian markets.

We have worked with the Department for Constitutional Affairs and International Financial Services London to promote our legal services. We have hosted important gatherings of foreign lawyers with the aim of enhancing trade in services.

In representing solicitors we have tried to recognise the views of a profession with widely differing areas of practice. Building on the success of the Law Management and Probate sections, we launched a Property section for conveyancers and commercial property lawyers. Its membership has exceeded expectations and we have extended the range of services it provides to members, who now receive a quarterly magazine, an e-mail newsletter ten times each year, discounts on a wide range of texts, events, and training programmes and will soon be able to use a new members-only website packed with useful information. We are currently considering the establishment of a Civil Litigation section on the same model. The development of sections representing specific areas of interest could well be a model for the future.



Consulting the profession

We have developed new ways of consulting with the profession directly. We have held two successful series of roadshows (on the Government's 'In the public interest?' consultation and on the future of publicly-funded legal services). More solicitors participated compared with paper consultations. A third series of roadshows is now underway on the Clementi review.

The development of our regional offices in Bristol, Leicester and our office in Wales, will help improve our links with solicitors further still.

Later this year we will launch a new website. It will be tailored to the needs and interests of those solicitors who register on it and provide personalised up to date information that they find especially useful.

A representative profession

If any profession becomes a bastion of one social group, it is likely to lose the confidence of those it is in business to serve, and it will be less able to represent the wide variety of needs. This is particularly so for solicitors. It is crucial that the profession is trusted by all members of society, given the important role solicitors play. That trust is partly based on the profession reflecting the makeup of society as a whole.





To ensure that this is so, we have launched the Diversity Access Scheme. This is a programme of job placements, mentoring and, beginning this year, a scheme of scholarships for LPC students. We hope that we will be able to offer 25 scholarships in the first year that will help young people who might otherwise face immense obstacles, to get a start in the profession.

The Society monitors the gender, race and disability profile of solicitors to assist the profession in recognising the work it needs to promote. It has also recently reviewed its anti-discrimination rules in order to promote improved practice within the profession.

Informing consumers

Over the last three years we have launched a major drive to give consumers more information about solicitors.

We have published a *Client Charter*, which sets out what clients can expect of solicitors, and how to complain if things go wrong. Copies in English, Welsh and community languages have been distributed via solicitors, Citizens Advice Bureaux, law centres and libraries.

We also published a series of *Client's Guides*, which explain how solicitors can help people handle various issues and problems – ranging from getting a divorce to housing issues. We have

published these in 11 community languages, and distributed them widely. Millions of guides have been handed out helping the public to understand exactly what goes on when a solicitor is acting for you. The most popular guide was *Making a will*.

We have published *Guidance on the effect of new regulations to combat money laundering*, and have distributed it via solicitors and directly via the net.

Later this year, we will launch a new website to help the public find a solicitor, www.find-a-solicitor.co.uk. This will be the only website on the Internet that lists all registered solicitors in England and Wales and indicates whether a solicitor specialises in a particular field.

Promoting Pro Bono Week

Many solicitors do unpaid work defending clients (especially on human rights issues) on legal helplines, in advice centres and serving on committees of charitable organisations

The Society launched the first Pro Bono Week and now organises an annual Pro Bono Week in conjunction with the Solicitors Pro Bono Group, the Bar Pro Bono Group and the Attorney General's office. The week promotes solicitors' unpaid work and encourages others to get involved.

Regulating the Profes

Self-regulation is a privilege, not a right. It is spotlight, not just for lawyers, but for many p

The Law Society earns its privilege on behalf profession in three ways

Setting Standards

We set the standards of entry into the profession, to ensure that all solicitors have the knowledge and skills that their clients deserve.

Enforcing Compliance

We discipline solicitors whose standard of work or service falls below the standards expected.

Helping Clients

We inform clients about what they can expect of their solicitor. We handle clients' complaints, and ensure that they are dealt with fairly and speedily.

Over the last three years we have been working hard to improve our performance in these three key areas.

Setting standards

Setting the standards of entry to the profession and practice is the foundation of the regulatory framework. The profession itself sets those standards, taking into account the public and consumer interests and developing legal practice. We regularly review our entire procedures. Two significant pieces of work are nearly completed that will bolster the profession's standards - the Training Framework Review and the review of the Solicitors' Practice Rules.

These reviews share similar aims: to simplify the rules and procedures that currently exist and modernize the Society's regulatory role and to help solicitors to meet them. The rules review will also make it easier for English and Welsh solicitors to exploit the opportunities that arise from the increasing globalisation of the market in legal services while clarifying the core duties of solicitors to clients. They will also try to

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demonstrate the growing need to differentiate the way we regulate different practices dependent on the needs of the client group concerned.

Globalisation and the expansion of the European Union create new opportunities for the profession. Solicitors from City firms and smaller practices regularly contact the Society asking about the regulatory implications of these changes.

We have established the Practice Standards Unit, which visits firms who may be experiencing difficulties and works with them to help them meet the standards that the profession demands. Visits have already revealed unmet need for support and development and have identified a small number of practices which need referring to our compliance team for investigation. More than 1,300 visits are planned for 2004, including a series of themed visits, to immigration practitioners, for example.



Enforcing compliance

If the public is to have confidence in solicitors, it is crucial that the standards expected of the profession are upheld. Individuals or firms who are letting down their clients or falling short of the ethical standards that the profession demands must be brought to account.

Three years ago, the Society undertook to ensure that firms comply with the profession's rules and the Council has approved significant increases in the resources devoted to this work. These resources have been invested in protecting the reputation of the profession through effective enforcement of the rules and work to raise standards of practice.

As in any profession, some individuals or firms behave in a way that amounts to serious misconduct or are dishonest. To deal with these problems, we have greatly expanded the size of our Investigation and Enforcement team. The team is responsible for examining serious breaches of the solicitors' conduct rules and allegations of criminal activity by solicitors. Such investigations are often carried out in tandem with the police or Customs and Excise and can be extremely complex. Investigations sometimes

result in conditions being placed on a solicitor's practising certificate or, in very serious cases of misconduct, in the solicitor being struck off the Roll and being banned from practising further or being fined. Criminal matters can result in prosecutions.

Last year, 240 solicitors had conditions placed on their ability to practise, and 78 were struck off by the Solicitors Disciplinary Tribunal. Information about solicitors' disciplinary records is available to those seeking a solicitor.

The Society has taken action to address the cases of former miners who sought compensation for industrial diseases. When it emerged that some firms handling these claims had taken cuts from compensation awards in addition to the fees paid to them by the Department of Trade and Industry for handling the cases, the Compliance Board issued a policy statement that made clear to all firms what their responsibilities are. A number of complaints against solicitors who may have taken unfair advantage of their clients (many of whom were vulnerable) are now being investigated.



Handling complaints

Solicitors in England and Wales carry out some 12 million transactions each year. With activity on this scale, some clients will not be satisfied with the service that they receive, and they are right to complain. In 2003, the Law Society received around 10,000 complaints about poor service. Although a high number, it represents around one complaint per firm per year.

In a recent survey undertaken by our Independent Commissioner, Sir Stephen Lander, only 10% of clients making complaints are ultimately dissatisfied with their solicitor's actions. It is possible of course that of the 10% that the Law Society deals with, some clients will still not be satisfied. About 8% of those we deal with seek further redress from the Legal Services Ombudsman (LSO), who sometimes disagrees with our decision. The Department for Constitutional Affairs has now enhanced the role of the LSO, appointing her to the post of Legal Services Complaints Commissioner, too.

Although complaints represent a very small proportion of transactions, their impact on public perception is considerable and dealing with

consumer complaints consumes a significant amount of the Society's resources.

We are the first to accept that we have had difficulties with complaints handling in the past. It is a very different type of activity from the rest of the regulatory work we undertake. However, as a result of the new ways of working that we are introducing, we are making progress.

- In 2003 we carried out a root and branch review of our complaints handling operations.
- We have now appointed a new Director of Consumer Complaints, with extensive experience in the field and we will relaunch our work on complaints handling as the Consumer Complaints Service later this year.
- Our front line staff now attempt to resolve complaints as quickly as possible over the telephone, acting as mediators between solicitor and client rather than entering into protracted and unnecessarily detailed paper-based investigations of what went wrong.
- We are matching national best practice standards in our telephony.



The future of regulation

We have a clear strategy to improve the regulation of the profession. How this work will be controlled in the years to come is now a matter for debate. Sir David Clementi is asking a series of questions on behalf of the Government, which will mean the Law Society must consider how it will need to change if it is to continue to have a role in both the regulation and the representation of the profession. Should it divide the governance of representation and regulation to reflect its dual roles? How might it change the way it regulates and represents so that the differential needs of sections of the profession are properly taken into account? How should it involve the public in its regulatory decisions so as to ensure public confidence?

The profession faces changing times. The Society will also need to continue to change if it is to continue to serve the profession.



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