



The Law Society

Law Society background Note

Review of non-geographical council seat designations

November 2012

General background

1. The Council consists of 100 seats, of which 61 are geographical seats and 39 are non-geographical seats, intended to represent sectors of the profession, types of solicitor or areas of practice. The Council Membership Committee ("CMC") is responsible for advising the Council on the designations to be applied to the non-geographical seats and on the appropriate method of filling them.
2. The terms of office of all the non-geographical members (four years, with the exception of the member representing the Junior Lawyers' Division (Trainee Solicitors and LPC students, who serves for two years) expire at the same time, which means that every four years the CMC must review the designations and the methods of filling the seats and report to the Council. The terms for the non-geographical seats next expire at the Society's AGM in July 2013.
3. Annex A sets out the salient Bye-Law provisions about the filling of non-geographical seats.

Historical context

4. It may be helpful to outline some of the history to the non-geographical seats and how they are filled.
5. The present structure of non-geographical seats goes back to 1989, when 14 such seats were created (out of a then total Council of 75 members). The aim of the seats was to represent demographic groups and areas of practice under-represented through the geographical seats. This is still a relevant factor in considering the filling of the seats.
6. The designation of seats at that time was carried out by the Council in the light of advice from the CMC, and the actual filling of seats was by an interview process carried out by a Nominations Committee, leading to a recommended name being put to the Council for approval.
7. The Council was considerably expanded in 2001, going up to 100 seats (plus five lay members) and the number of non-geographical seats was raised to 39, with the number of geographical seats staying constant at 61. The aim of the changes was to allow for representation of a wide range of groups, sections and other organisations, as well as to give the Council greater legitimacy directly to elect the office-holders. (Direct elections of the office-holders by the membership as a whole were discontinued at the same time.)
8. The 2001 changes also led to a change in the way the non-geographical seats were filled. It was provided that henceforth the seats should so far as possible be filled by ballot of all the solicitors (being members of the Society) within the organisation or category of solicitor concerned, such ballot to be conducted in the same way, *mutatis mutandis*, as a ballot in a

geographical constituency. The only exceptions were to be those cases where a discrete electorate could not be readily identified, and in such cases the CMC could recommend that the Council appoint a member to fill the seat, following a transparent advertisement and interview process. (There are no seats currently within this category.)

9. In 2005, further changes were made, so that where a seat was specifically designated to represent a particular organisation (a matter for determination by the CMC), the executive of that organisation could if it wished nominate a member to fill the seat rather than having it filled by a ballot of all the members in the organisation. The rationale for this change was that direct ballots might produce "mavericks" who had little contact with the organisation and could be out of step with the executive. A number of organisations have availed themselves of this procedure.
10. Although there are 39 non-geographical seats, not all the seats have ever been filled. The CMC has felt it sensible from the start to hold a few seats in reserve, and in several cases designations have been cancelled following the resignation of the relevant members, or no candidates came forward to fill them, and those seats have been left to lie fallow. The current number of filled seats is 30.
11. There is no requirement that all the seats be filled, but equally the CMC would be able to recommend that some or all of the unfilled seats should now be filled, and will consider this issue in the light of representations, including any on behalf of organisations or categories of solicitor not currently represented on the Council. A new designation might on the other hand be balanced by the cessation of an existing designation or a reduction in the level of representation, where this no longer appears to be justified.

Current seat designations

12. The current seat designations are -

Seats filled by ballot

Child Care Law
Civil Litigation
Commercial Property
Crown Prosecution Service
Ethnic Minorities (2 members)
EU Matters
Government Legal Service
Housing Law
Immigration Law
International Practice
Junior Lawyers' Division (Solicitor member)
Junior Lawyers' Division (Trainee Solicitor/LPC Student Member)
Residential Conveyancing
Voluntary Sector

Organisational seats filled by nomination

Association of Personal Injury Lawyers
Association of Women Solicitors
Black Solicitors' Network
Commerce and Industry Group Group (2 members)
Criminal Defence (by CLSA and LCCSA jointly)

Division for Lawyers with Disabilities
Junior Lawyers Division (Solicitor member)
Law Management Section
Legal Aid Practitioners Group
Private Client Section
Solicitors in Local Government (2 members)
Solicitors' Sole Practitioners' Group (2 members)

13. At Annex B is a schedule showing how the electorates, and eligibility to stand and nominate, for each of the balloted seats are defined. These procedures are part of the subject-matter of the review.

Scope of the consultation

14. The CMC is empowered under its terms of reference to review the designation of every non-geographical Council seat and (subject to the Bye-Law provisions about nominations in organisational seats) how each such seat should be filled. It follows that there are no guarantees that any particular designation will continue, that the number of Council members allocated to each designation will continue at that level, or that the definition of the electorate for every seat to be filled by ballot will remain the same.

Conclusion

15. The CMC looks forward to receiving responses to the consultation, which should be submitted not later than **4 January 2013** to -

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Annex A to Background Note

BYE-LAW PROVISIONS RELATING TO NON-GEOGRAPHICAL COUNCIL SEATS

Non-geographical constituencies

- 47(1) Each non-geographical Council seat for solicitor-members shall bear a designation denoting the sector of the profession, type of solicitor or area of legal practice ("the non-geographical constituency") to be represented by the seat.
- (2) In this Bye-Law, "designation" means designation by the Council, taking account of advice from the Council Membership Committee.
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Election of non-geographical Council members

- 79(1) A non-constituency Council seat shall, subject to paragraphs (2) and (7), be filled by a ballot administered by the Chief Executive, in accordance with Bye-Laws 66-78, with the necessary adaptations.
- (2) Where the Council, in the light of advice from the Council Membership Committee, has determined that the purpose of a non-geographical Council seat is to represent the organisation designated, the governing body of the organisation may opt to nominate a member to the seat designated for that organisation and, if this option has been exercised, no ballot shall be held.
- (3) Where an organisation has -
- (a) been designated under (2), and
 - (b) under (3) the governing body opted to nominate a member to the seat designated for the organisation
- it shall nominate a member to the seat in accordance with guidelines laid down by the Council Membership Committee.
- (4) Each candidate for nomination by an organisation under this Bye-Law shall by such date as the governing body of the organisation shall specify (which shall be earlier than the date on which the governing body considers the nominations) disclose in writing to the governing body and to the Chief Executive any matters which should be disclosed by a candidate under Bye-Laws 58-63.
- (5) A nomination under this paragraph shall be made to the Chief Executive in a manner specified by him or her, and be made by the chair or secretary of the organisation concerned.
- (6) Receipt by the Chief Executive of a nomination lodged in accordance with (3) shall, subject to the outcome of any investigation under Bye-Law 80, complete the election of the person nominated and that person shall take office on the election date.
- (7) The ballot procedure in (1) shall not apply where the Council Membership Committee has advised that the procedure is impracticable in the case of a particular seat, and in such a

case the Council, acting in the light of that advice, may elect a member to the seat in question.

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Complaint about nomination procedure in organisational seats

- 80(1) If any complaint is made within 14 days after the receipt of a nomination by the Chief Executive to the effect that a nomination made under paragraph 4 has not been dealt with in accordance with the requirements of that paragraph, the Council may –
- (a) order an investigation into the procedure that has been followed in making that nomination, such investigation to be conducted in such manner as it shall decide; and
 - (b) where it considers that the procedure has not been carried out substantially in accordance with the requirements of paragraph 4, order that the nomination in question shall be set aside, and that the nomination procedure shall be started afresh.
- (2) Those eligible to stand for election, nominate candidates and vote in a ballot conducted under Bye-Law 79(1) shall be –
- (a) Those members of the Society (including trainee solicitors and students undertaking a Legal Practice Course in respect of any seat designated as representing such persons) who are members of a section, group, association or other body relevant to the designation of the seat concerned; or
 - (b) If there is no such section, group, association or other body relevant to the seat, those members of the Society who are comprised in the category of solicitors practising in the area of law represented in the designation of the seat or who are identifiable from the records of the Society as appearing to be so qualified or who have registered with the Chief Executive their wish to do so.

Annex B to Background Note**CURRENT CRITERIA TO NOMINATE CANDIDATES, STAND FOR ELECTION AND VOTE IN BALLOTS IN NON-GEOGRAPHICAL SEATS**

[Note: All candidates and nominators must be members of the Law Society]

Constituency	Eligibility Criteria
Child Care Law	Candidates and nominators must be members of the Law Society's Children's Panel, the Law Society's Children's Panel – Adult Party or the Law Society's Children's Panel – Local Authority.
Civil Litigation	Candidates and nominators must have recorded with us one of the following categories of work: Litigation – General or Litigation – Commercial.
Commercial Property	Candidates and nominators must have recorded with us Commercial Property as a category of work.
Crown Prosecution Service	Candidates and nominators must have recorded with us the Crown Prosecution Service as their main employment.
Ethnic Minorities (2)	Candidates and nominators must be have recorded with the Law Society that they are from an ethnic minority and have given their consent to be contacted by the Society for election purposes.
EU Matters	Candidates and nominators must be members of the Law Society's Competition Section or practising in other EU States.
Government Legal Service	Candidates and nominators must be employed within a Government Department or Agency* or serving as a lawyer with the Armed Forces. <i>*excluding the CPS, which has its own Council seat</i>
Housing Law	Candidates and nominators must have recorded with us Housing Law as a category of work.
Immigration Law	Candidates and nominators must have recorded with us Immigration and Nationality as a category of work.
International Practice	Candidates and nominators must have recorded with us International Practice (non-EU) or European Law as a category of work.
Junior Lawyers' Division (solicitor member)	Candidates and nominators must be solicitors with up to five years' active PQE (as at the last date for nominations).

Constituency	Eligibility Criteria
Junior Lawyers' Division (trainee/student member)	Candidates and nominators must be trainee solicitors, students currently on an LPC course or students who have successfully completed their LPC course in the last 24 months who are not on a training contract
Residential Conveyancing	Candidates and nominators must have recorded with us Residential Conveyancing as a category of work.
Voluntary Sector	Candidates and nominators must have recorded with us that they are employed in a Citizens Advice Bureau or a Law Centre.