

## The Crime and Courts Bill

Second Reading – Monday 28 May 2012

*The Law Society ('the Society') is the representative body for 145,000 solicitors in England and Wales. The Society negotiates on behalf of the profession, lobbies regulators, Government and others and has a public interest role in working for reform of the law*

### Key Points

The Law Society warmly welcomes many of the provisions in the Crime and Courts Bill. Many of the Bill's proposals will create a more efficient justice system. However, there are few areas where the Society has serious concerns. This briefing summarises the Law Society's view of the Bill and provides further details of the areas where there is concern.

- **National Crime Agency** – The Society welcomes the establishment of the NCA and looks forward to continuing to work with the Government to ensure that it meets its objectives.
- **Unified County Court and a new family court** – The Society supports these measures which should allow for more efficient deployment of judges and use of the courts.
- **Judicial appointments and judicial deployment** – The Society supports most of these measures, but is concerned at proposals to enhance the powers of the Lord Chancellor in relation to appointment of the Lord Chief Justice and the President of the Supreme Court which could encroach on the principle of an independent process for judicial appointments.
- **Disclosure of information for calculating** – The Society welcomes this efficiency measure.
- **Broadcasting court proceedings** – The Society welcomes moves towards more open justice, and welcomes the Government's proposals for safeguards.
- **Removal of appeal rights for family visit visas** – The Society is seriously concerned that this proposal will remove the most effective method of checking on poor decision-making by the UK Border Agency.

### Part 1: The National Crime Agency

1. Part 1 of the Bill establishes the National Crime Agency (NCA) which will take on the work of the Serious Organised Crime Agency (SOCA) and the National Policing Improvement Agency.
2. The Society commends the work undertaken by SOCA in recent years to disrupt organised crime and to engage with the private sector on combating money laundering and terrorist financing. The creation of the NCA is not an indication of the failure of SOCA, but is designed to ensure better coordination of resources for tackling the local manifestations of national and international criminal activities.
3. The Society looks forward to continuing to work with the Government on the creation of the NCA to ensure that it effectively meets the bold objectives set out in this Bill.

### Part 2: Courts and Justice

4. **Civil and family proceedings in England and Wales** – Clause 17 provides for the removal of geographical jurisdictional boundaries from the county court structure and creates a single county court with national jurisdiction. The Clause also implements the recommendation of the Family Justice Review Panel to create a single Family Court with a single point of entry.
5. The Society supports these provisions which should allow for more efficient deployment of judges and use of the courts.

6. **Judicial appointments** – Clause 18 and Schedule 12 contain a number of provisions relating to judicial appointments. They, in the main, implement the recommendations of the Advisory Panel on Judicial Diversity chaired by Baroness Neuberger. The Society supports the majority of the Bill's provisions in this area, but has one area of serious concern.
7. The Society is concerned that the Bill creates an enlarged role for the Lord Chancellor in, for example, the selection panel for the appointment of the President of the Supreme Court and the Lord Chief Justice. Under the Constitutional Reform Act 2005 the Lord Chancellor's role was limited to a right to comment on the candidates, whereas the Bill proposes that the Lord Chancellor be a member of the selection commission. This may encroach on the principle of an independent process for judicial appointments introduced by the CRA 2005.
8. **Deployment of the judiciary** – The Society supports the measures in Clause 19 and Schedule 13, which provide for greater flexibility in the deployment of the judiciary.
9. **Disclosure of information for calculating fees for courts, tribunals etc.** – The fees charges for taking an issue to court continue to rise. Fee remissions are provided to some users of fee charging services for people on low incomes, although this is set at a level even below the income level for eligibility for legal aid. Clause 21, which provides for an information sharing gateway which would enable the creation of an IT interface to provide rapid proof of fee remission eligibility. The Society firmly supports this provision.
10. **Enabling the making, and use of films and other recording of proceedings** – Clause 22 gives the Lord Chancellor the power, with agreement of the Lord Chief Justice, to allow broadcasting of selected court or tribunal proceedings by secondary legislation.
11. The Society welcomes these measures which are intended to improve public confidence in, and knowledge of, the justice system and, as it has always done, firmly supports the principle of open justice. However, there is a risk that broadcasting certain aspects of court proceedings could cause undue stress to victims of crime, witnesses and defendants alike, and could lead to selective and sensational reporting of trials.
12. The Society is therefore pleased that the MoJ's proposals state that the Government intends only to allow the live broadcasting of courts in limited circumstances only – initially at the Court of Appeal, and later, the filming of judges' sentencing remarks only. The Society also notes, with approval, the proposal that any order made by the Lord Chancellor be with the concurrence of the Lord Chief Justice, and that the court will have the discretion to stop filming or refuse broadcasting of recorded footage where it would interfere with the proper administration of justice or threaten the interests of any person involved in the proceedings.

### **Part 3: Miscellaneous and General**

13. **Appeals against refusal of entry to clearance to visit the UK** – Many British citizens and persons living in the UK have family members living outside of the UK. This results in a high volume of visa applications from people wishing to visit their family in the UK. Clause 24 removes the full right of appeal against refusal of an application for a visa as a family visitor, while retaining a right of appeal only on human rights or discrimination grounds.
14. The Society is strongly opposed to this proposal. The Society has serious concerns about the poor quality of decision making by overseas entry clearance officers, which can lead unnecessary delay and distress for applicants; concerns which have also been noted by the HM Inspector of Borders and Immigration. With no known action being taken by the UK Border Agency to improve the quality of decision making, the Society is concerned that the loss of appeal rights will remove the only available check on poor decision making.

#### **For further information please contact:**

Richard Messingham (Public Affairs Adviser)

T: 020 7320 5858 / M: 07870 889 330

E: [Richard.Messingham@lawsociety.org.uk](mailto:Richard.Messingham@lawsociety.org.uk)