

**COUNCIL – 7 February 2018**

**Item 7 XX**

**Classification: Public**

**Purpose: For noting**

REPORT OF THE CHIEF EXECUTIVE OF THE LAW SOCIETY – PART 1

**The issues**

This edition covers the period 07 December 2017 – 25 January 2017 and provides:

* Key part 1 updates

**Remit**

The Interim Chief Executive is responsible for the delivery of the Law Society’s strategy.

**Statement of territorial application**

This paper applies to England and Wales.

**Our vision**

We want to be valued and trusted as a vital partner to represent, promote and support solicitors while upholding the rule of the law, legal independence, ethical values, and the principle of justice for all.

**Financial, section 51 and resourcing implications**

There are no financial implications.

**Consultation with Finance**

This report has not been sent to Finance to review.

**Equality and Diversity implications**

Equality and diversity issues, where appropriate, have been highlighted in the relevant Directorate reports.

This report has been prepared for Council.

**Interim CEO:** Paul Tennant

**Author:** Paul Tennant

**Date of report:** 25 January 2018

**Executive Summary**

My focus and the Executive Team is to progress;

1. The direction and future of TLS including the operating environment, the governance position, regulation and long term business planning
2. The evolution of TLS looking at business change programmes, the leadership and management of the organisation and infrastructure
3. The performance of TLS looking at the current business plan, priorities, structure, reporting framework, products and the operating framework

This report provides an update on the key issues facing the Law Society and our members and an update on communication activities.

The report includes:

* A summary of current key part 1 issues
* Appendix 1 – key communication activities

**CEO Key activities**

1. **Council strategic planning weekend**

Through our proposals made as part of our governance changes we identified the need to enable council to operate more strategically.

This planning weekend is being scheduled to enable Council to engage in a strategic discussion, ahead of the budgeting process and new Presidential year – this well help shape our business planning process for years two through five.

There is no standard business scheduled for discussion at the April meeting of Council, but it is usually timely in enabling Council a first view of the approach to business planning for the coming year.

The focus of the weekend will therefore be to move away from the standard Council meeting format and use workshops and group discussions to engage Council in a strategic discussion ahead of the budgeting and business planning process, as well as the new presidential year.

1. **Brexit – areas to focus on in 2018**

The Law Society’s work on Brexit continues to focus on five key priorities:

* Continued mutual access for solicitors to practise law and base themselves in the UK and EU member states, to have rights of audience in EU courts, institutions and the Unified Patent Court (when it opens) and for their clients to have legal professional privilege
* Continued mutual recognition and enforcement of judgments and respect for choice of jurisdiction clauses in the UK and EU
* To maintain collaboration in policing, security and criminal justice
* Ensure that legal certainty is maintained throughout the process of withdrawal, including transitional arrangements.
* Ensure that the Government works effectively with the legal services sector to continue to promote England and Wales as the governing law of contracts, the jurisdiction of choice and London as the preferred seat of arbitration.

**Key work and engagement since the last EU Committee meeting**

Government engagement We will be having monthly meetings with Lord Henley, Minister for Professional Services, to discuss Brexit. Executive Director of External Affairs, Robert Khan, also attended a roundtable with Lord Henley and Lords Spokesperson for Justice, Lord Keen in December.

Parliamentary engagement The Law Society has submitted written evidence to:

* Treasury Select Committee on transitional arrangements
* International Trade Select Committee on continuing free trade agreements

In December we were mentioned five times in the Lords EU Select Committees ‘Deal or no deal’ Brexit report, which outlined the potential impact on the UK of leaving the EU without a deal, and examined the feasibility of a transition period immediately post-Brexit. They referenced our:

* ‘off the shelf’ alternatives to Article 50 in the transition.
* suggestion that Norwegian and Swiss models of conducting institutional relations with the EU are worth considering for a transition period.
* warning that “any transitional arrangement that would see the UK become an EEA/EFTA member state (even for a time-limited period) would involve a time-consuming and complex negotiation and ratification procedure” (subject to unanimous EFTA state agreement).
* comment that the EU would not welcome an extension of any transitional arrangements as this “would involve the UK taking part in the 2019 European Parliament elections.”

We have also held a series of one to one meetings with relevant backbench MPs including the Chair of the Treasury Select Committee and members of the Exiting the EU Select Committee. We also met the DUP spokesperson on Justice and International Trade.

Legislation Several of the Brexit bills continue to make their way through Parliament. The Law Society is actively briefing MPs and peers on the following Bills:

* EU (Withdrawal) Bill **–** Completed its passage through the House of Commons and moves to the House of Lords on 29 January.
* Taxation (Cross-border Trade) Bill (formerly known as the Customs Bill) – This recently started its passage through the House of Commons and Committee Stage will begin shortly.
* Anti-Money Laundering and Sanctions Bill – The Bill will begin in the House of Commons in the next few weeks, having completed its passage through the House of Lords.

Our points on the EU (Withdrawal) Bill have been raised in the House of Commons and on the Anti-Money Laundering and Sanctions Bill in the Lords.

**Law Society input into government groups on Brexit**

As mentioned in the December paper, the Law Society continues to input into government groups on Brexit. As well as our regular meetings with officials the Law Society has been playing a key role in several Government industry/sector groups:

* Brexit Law Committee - The Group has submitted papers to the Government on the dispute resolution mechanisms and how to retain civil justice co-operation. They have also had meetings on competition law, intellectual property law, insolvency law and company law. The January meeting focused on taxation.
* Professional Business Services Council’s (PBSC) Mutual Market Access Group – We met with Lord Prior, former BEIS Minister for Professional Services and the Director General at BEIS. The Chair of the group is Edward Braham, Senior Partner at Freshfields Bruckhaus Deringer. We continue to engage with civil servants through the group and will be holding a joint parliamentary event to portray the professional and business services sectors key priorities to MPs and peers on 30 January.

**Parliamentary reshuffle - Future focus of Law Society work**

Following the reshuffle, the Law Society will focus on engaging with new key ministers and those that are going to be included in the discussion on the future UK-EU relationship. We will be releasing our three policy papers and using these to aid our discussions with ministers, MPs and peers.

We will continue to engage with civil servants in the relevant departments as the negotiations continue and to feed into their policy development through the Brexit Law Committee and the Professional and Business Services Council (PBSC) Mutual Market Access Working Group.

As the three Bills noted above move through Parliament we will continue to brief parliamentarians. We are also awaiting the publication of further Brexit Bills, particularly the Immigration Bill.

**Brexit and Intellectual Property**

On 22 December the Law Society submitted a note signed by the Chairs or Presidents of CIPA, CITMA, the IP Bar Association, IP Federation and the Law Society’s IP Law Committee (IPLC) to the Government summarising the key priorities and recommendations for consideration in relation to Intellectual Property and Brexit.

The note setting out the requests has been shared with various government departments including the Ministry of Justice, the Department for Exiting the European Union, the Department for Business, Energy and Industrial Strategy, and the UK Intellectual Property Office and has also featured in number of publications including the Gazette, the World Intellectual Property Review and IPKAT.

1. **Law Reform**

We are contributing to the review of the Mental Health Act 1983 commissioned by the Prime Minister, and have responded to the Law Commission’s review of the Sentencing Code. We will be working closely with the Commission on its latest programme of work, announced in December, including simplifying the Immigration Rules and modernising trust law along with residential leasehold, registered land and chancel repair liability, administrative review, electronic signatures, and surrogacy.

1. **AML consent-regime**

We are liaising with HM Treasury about preparations for the forthcoming evaluation of the UK’s AML regime by the supra-national authority the Financial Action Task Force.

We responded to the Financial Conduct Authority’s consultation on recovering the costs of the new Office for Professional Body AML Supervision, urging that costs should be kept to a minimum and suggested they should be allocated by placing PBSs into fee bands in line with their size.

We briefed peers on the AML and Sanctions Bill, expressing our concerns about the extent of the proposed delegation of regulation-making powers to ministers.

1. **Immigration**

We published a new Practice Note on immigration appeals in December which is available to members on our website.

1. **Legal aid – Launch of our early advice campaign**

We launched our campaign calling for legal aid to be reintroduced for early advice, which resulted in media coverage in the Guardian, on Buzzfeed and the Radio 4 Today programme, as well as vocal support from MPs across all parties. At the justice oral questions session in Parliament in December, the former Minister Dominic Raab MP faced questions from a cross-party group of MPs including the chair of the Justice Select Committee calling for the reintroduction of legal aid for early advice in housing and family cases. The Labour frontbench have committed to reintroducing legal aid for early advice in family law as a result of our campaign. Two short animations developed to promote the campaign have received nearly 300 views, and the campaign has received wide coverage on social media.

1. **Legal aid - Domestic Violence Regulations and legal aid change rule**

The number of domestic abuse victims able to access free legal advice is set to increase after the government changed strict evidence rules introduced in 2013. We campaign against arbitrary time limits imposed on evidence of domestic abuse (which were introduced by the government as part of the Legal Aid, Sentencing and Punishment of Offenders Act 2012). The types of evidence that can be accepted for victims to access legal aid have now been broadened to include statements from domestic violence support organisations and housing support officers.

The Ministry of Justice has revised the regulations on the evidence requirements for victims of domestic abuse to access legal aid in private law family cases. The strict evidence requirements introduced through LASPO prevented many victims of abuse from accessing legal aid. The evidence requirements were successfully challenged through judicial review and the Government agreed to review the requirements.

The Law Society, along with other stakeholders, has worked closely with the Ministry of Justice to successfully ensure that the evidence required is more appropriate and that victims of abuse are able to access legal aid. The revised regulations came into force on the 8th January 2018. We are now producing a Practice Note to assist practitioners in navigating the revised regulations.

1. **Employment tribunal fees**

The Justice Select Committee held a one-off evidence session on employment tribunal fees and the President gave oral evidence making important points on access to justice, proportionality and jurisdiction of tribunals.

Key metrics - In December 2017, the Law Society and its campaigns were:

* Positively mentioned in Parliament 11 times on matters related to access to justice:
* Received one invitation to give oral evidence to the Justice Select Committee
* Briefed six times on debates and oral questions which led to the organisations and its arguments being cited 11 times.
* Received five mentions in social media by parliamentarians

1. **Wales**

The Law Society was referenced in two evidence sessions of the National Assembly Finance Committee on the progress of ‘Devolution of Fiscal Powers’. The Wales Audit Office praised engagement between Welsh Government and the Law Society. The Welsh Revenue Authority Chief Executive noted engagement with the Law Society in particular on draft guidance and the joint survey on awareness and communications.

Meetings have taken place with the Welsh Revenue Authority Stakeholder team and new Head of Communications (appointed January 2018) as part of planning for new Land Transaction Tax.

**Commission on Justice in Wales**

* The Commission has met twice and identified its work streams. The Wales Office has shared TLS research materials with the Commission and will engage with its work in the coming weeks.
* Figures on diversity in the profession in Wales were provided to the Welsh Government and a meeting held with the new head of justice policy.
* The National Advice Network and Independent Advice Providers Forum (“IAPF”) met as the Welsh Government Advice and Information Action plan progresses. The quality framework is to be implemented through applying current quality frameworks with ‘add ons’ for additional requirements notably Welsh language provision. EMBARC has been awarded the contract to implement this. On mapping of provision one private practice provider has registered on the DEWIS public sector register. Discussed the Commission on Justice, the Chair is in contact with Lord Thomas and existing evidence from the sector will be collated and provided. The Network was advised that the IAPF requests consideration of funds to cover a Welsh Government post to manage commissioning and funding in Wales following devolution of debt advice funding.

1. **International**

In December, our Head of International Mickaël Laurans attended the WTO Ministerial Conference in Buenos Aires as part of an IBA ‘International Trade in Legal Services’ Delegation. A number of briefings and meetings took place with officials from the UK Department for International Trade, the European Commission DG Trade and the Australian Trade Delegation (leading on trade in services at WTO level in Geneva) so as to reinforce the message that legal services should be included in multilateral and bilateral trade negotiations.

During January, the President Joe Egan attended the Opening of the Legal year in Hong Kong. He delivered a speech on how solicitors equip themselves to deal with competition from other service professionals to an audience of 37 foreign bar leaders at the Presidents’ Roundtable. He also had a bilateral meeting with the new Hong Kong Secretary for Justice, Ms Teresa Cheng SC.

We took part in a conference call with the US Conference of Chief Justice and the US Trade Representative to discuss international trade and legal services regulatory developments.

We met with the UK Department for International Trade for an update on trade discussions potentially impacting on the legal services sector (EU, South Korea, Australia, New Zealand, and USA)

We attended the first UK Ministry of Justice International Legal Services Working Group Meeting of 2018. On the same day, we further met with Ministry of Justice officials to discuss our joint English Law Day/Global Legal Centre/”Legal is great” summit in Kazakhstan in April 2018 to promote the use of English and Welsh law as governing law of choice in international contracts and England and Wales as a jurisdiction of choice for dispute resolution. Kazakhstan generates a high number of cases to the Business and Property Courts every year and was in third place in terms of foreign litigants in 2016.

We are actively engaging with our 9 member firms defending the Indian Supreme Court appeal case against fly-in fly-out (FIFO) provision of legal services by foreign lawyers in India.  We provided them with further information on how Indian lawyers can operate in England and Wales and how solicitors are regulated when provided FIFO services outside of England and Wales. This will be used as evidence in the case.

In January, we organised a seminar on the Day of the Endangered Lawyer. This year the focus is on Egypt with Dr. Nancy Okail, a human rights defender, as our guest speaker. She is the Director of the Tahrir Institute for Middle East Policy in Washington DC. In 2013, she was tried in absentia and convicted to five years imprisonment in proceedings in which 43 NGO workers were charged with using foreign funds to foment unrest in Egypt. We are also organising meetings with Nancy and the FCO, the All Party Parliamentary Group on Human Rights and Amnesty International.

In January, we attended the 2018 New York State Bar Annual Meeting. New York is the fourth international hub for solicitors based overseas and we will support the creation of a solicitors’ association there. We will also raise the issue of requalification for solicitors having qualified through the GDL route as it remains unrecognised by the NY State Bar. We also participated in the ABA Mid-Year meeting in Vancouver, Canada.

In January, we organised a roundtable on the situation of human rights defenders in Honduras, featuring the journalist and human rights defender Dina Meza. Around 25 organisations have been invited to the roundtable, with the objective of raising more awareness and build coordinated work amongst organisations based in London on how to support the work of human rights defenders in Honduras.

In January, we hosted a breakfast roundtable to launch our Doing Legal Business in Kazakhstan guide.

In January, our Brussels office hosted its annual new year reception with our office partners from other European Bar associations. President Joe Egan hosted and had a number of meetings with EU stakeholders while there. Brexit featured heavily on the agenda of many of these meetings.

In February, Mickaël Laurans gave evidence to the House of Lords EU Internal Market Sub Committee on trade in non-financial services post-Brexit.

In February, we organised the 3rd roundtable on the international programme “Women and the Law” chaired by Vice President Christina Blacklaws.

1. **Prison Law Contract Amendments**

We submitted a joint response with the Legal Aid Practitioners Group to a Legal Aid Agency consultation on amendments to the Prison Law Specification in the Crime Contract. This was a short non-public consultation on contract amendments to reflect changes to the regulations to widen the scope of legal aid for prison law cases following a successful judicial review brought by the Howard League last year.

1. **HMCTS**

The Society has broadly supported in principle the introduction of court services becoming digital by default and design, provided that the proposals are not driven by austerity measures and access to justice must remain at the heart of the reform programme. HMCTS intends to run various Flexible Operating Hours (FOH) pilots from late February 2018 after the completion of a tender process to secure an independent evaluator.

On 24 October 2017 HMCTS published a blog post on FOH and an accompanying prospectus. We set up a cross-committee group to assist in the response. The finalised response was submitted to HMCTS on 30 November 2017.

We are currently awaiting the summary of responses from HMCTS, expected in January prior to the commencement of the pilot in late February.  We are continuing to engage with HMCTS to provide feedback on the ‘as is’ situation for many practice areas as well as IT prototypes. We are also engaging with a working group exploring the implications for open justice of the move to video and online processes.

1. **Fixed recoverable costs**

We are holding a series of roundtable events across the country (London, Swindon, Manchester, Cardiff and Cambridge) to discuss Lord Justice Jackson’s proposals with the membership. This will help to inform our response to the Ministry of Justice consultation when it is released. On the low value clinical negligence claims, we are continuing our work with specialist practitioners on what a fixed costs scheme may look like for cases under £25,000, and we are still waiting for a formal response from the Department of Health to their consultation from last year.

1. **Holiday sickness claims**

We contributed to the Ministry of Justice’s continuing work on how these claims could fit into a fixed recoverable costs process, specifically how these claims are investigated and the details of the pre-action protocol.

1. **NHS standard contract**

NHS England have now announced their new standard contract. They have significantly reeled back from their previous proposal which was effectively a blanket ban on Solicitors on NHS premises. The new wording in the standard contract has the following effect:

1. It confirms existing guidance on advertising legal services on NHS premises.
2. It bans contractual arrangements which might lead to the pursuit of claims against the NHS.
3. It puts the onus on trusts to ensure unsolicited approaches are not made on NHS premises.

We are considering what further action to take at this time.

1. **Small claims/whiplash**

We made an updated submission to the House of Commons Justice Select Committee (JSC) in December adding to our opposition to proposed reforms. The JSC held an oral evidence hearing on 16th January which has been widely covered in the legal press. We await their findings and continue to await the Civil Liability Bill.

1. **ADR**

We submitted our response to the Civil Justice Council’s interim report on the future of Alternative Dispute Resolution in civil justice early this year and we await their final report.

1. **Regulation**

We responded to the SRA’s consultation onprice and service transparency.  The SRA is proposing to require solicitors to publish price and service information on their websites.  We published a consultation response alongside consumer research which highlighted that simply publishing more information on websites is unlikely to help clients make better choices. We continue to emphasise the significant work that solicitors already do to help clients understand the nature of their legal needs and be clear on the price of the service.  We expect a decision later this year from the SRA.

We responded to the SRA’s consultation on Handbook reform.  The SRA is proposing to allow solicitors to work on a freelance basis, outside the confines of a regulated firm. They also proposed to loosen the supervision requirements.  The Law Society continues to make the case that flexibility for practitioners should not come at the expense of clients.  The SRA’s proposals go too far in removing regulatory protections, which is a view that has been echoed by other stakeholders including the Legal Services Consumer Panel.  We expect a decision later this year from the SRA.

We responded to the Legal Ombudsman’s consultation on its business plan.  We emphasised the importance of high quality investigations and decision-making for both clients and practitioners, and suggested this should be a key focus of the business plan.

On apprenticeshipswe continue to support the profession.  We have held a roundtable with City members to outline the support offered by the Law Society.  We have published two cases studies on our website and continue to engage with the National Apprenticeship Service.

**Appendix 1**

**Key communications activities**

**Solicitor Brand Campaign**

Solicitor Brand Campaign activity for December focused on social media channels where we continued to exceed campaign KPIs with 1.5m+ impressions, over 44,000 interactions (people liking, sharing and commenting on campaign posts) and over 62,000 video views on Facebook and Twitter. We ran 3 brand awareness campaigns which showed over 25,00 people recalled seeing campaign collateral – equating to a 10% brand awareness recall. And there were just under 500,000 visits to FAS.

The 2017-18 solicitor brand campaign plan will include:

* overhauling and updating campaign content on the main Law Society webpage
* reviewing and updating our suite of consumer guides and making these available as digital downloads for members or as printed collateral via our ecomms website
* continuing to educate, inspire and entertain consumer audiences with our social media content focusing on the 6 key areas of law
* delivering an outdoor advertising campaign in April and May with adverts at train stations, on buses and trams and on digital screens at a variety of locations across the country
* supporting the outdoor advertising with regional press and online advertising
* syndicating content (video and animations) and making this available to members for use on their own websites and social media channels
* promoting collateral we already have (posters, leaflets etc) which members can customise and order through our ecomms website.

A new joiners pack is now being sent to members who are admitted to the roll. The pack includes a welcome letter from the president, a membership certificate, a copy of our Member Handbook and our credit card sized summary of what we are doing to promote the profession, influence for impact, keep members up to date, support practice excellence and be a career companion. We have mailed out 3700 packs to members who were admitted to the roll between 1 May 2017 and 30 November 2017. In February we will mail packs to those admitted to the roll in December and January. From March onwards packs will be issued on a rolling monthly basis.

**Test campaign - videos**

We ran a test campaign using paid for postings of videos on LinkedIn and Facebook, with a target focus on specific countries. The results have been positive and have increased our reach in key target countries such as Brazil, Australia, Mexico and South Korea.

We tested two videos:

* the overarching video (England and Wales: A global legal centre <https://www.youtube.com/watch?v=QaHlKUiGVJI&list=PLSgsXj8W8-CbAU5ntJxp0LiWOnht7JlIE&index=1>)
* a short video (A legal system stretching back for centuries - Funke Abimbola: <https://www.youtube.com/watch?v=C4agwxBx5SM&index=12&list=PLSgsXj8W8-CbAU5ntJxp0LiWOnht7JlIE>)

The short video performed extremely well, with **19,611** people watching the whole video on Facebook. The long video performed better on LinkedIn than Facebook with **1,916** people watching for longer than 10 seconds On LinkedIn the long video received **24,485** **impressions**, and the short video received **15,384 impressions**. (impressions means the number of people who saw the posts). The videos performed particularly well in Australia, Brazil, Nigeria, United Arab Emirates, South Korea and Mexico, as well as in the UK.

These initial results are really positive and represent a significant increase in the views so far achieved on YouTube – and the results show that we are increasing the global reach of the campaign, which is a key objective. As the test campaign has been successful we will roll this out more widely over the next 6 weeks. We will review the budget to ensure we have funds to continue this campaign throughout 2018.

**Diversity and Inclusion (D&I) work programme**

A three-phase D&I work programme developed in collaboration with EDIC, divisions, social mobility ambassador reps and internal colleagues, went live in November 2017. Adopting an evidence led approach, the programme is split across three pillars as follows:

1. Pillar One thematic programme with two strands: Inclusive and Empowering Leadership, and Resilience and Wellbeing
2. Pillar Two: Education and Awareness – focused on diversity and inclusion History months and awareness weeks and days through the year
3. Pillar Three: Society People – provision of support for the future law society and overarching change internally including for example:
4. reintroduction of Equality Impact Assessments in PPM work
5. the redesign of the D&I e-learning module for TLS people and elected and appointed members, and
6. aligning activity with internal leads on wellbeing and mental health

**Communication with members**

In December, Professional Update was viewed by 132,584 subscribers, with an average open rate of 18.76% per issue.

Top five items in the month were three blog posts and two press releases:

* How fraudsters almost extorted €500,000, using only emails and phone calls - 2,775
* It must happen by Christmas, said the client – 2,491
* Do money launderers take holidays off? Five red flags to look out for – 1,994
* Unnecessary disruption of the legal sector not in national interest – 1,118
* Law Society launches High Court challenge over latest legal aid cut – 1,078

Over 2017 we achieved a step-change in broadcast coverage. We achieved 25 regional broadcasts, 23 national broadcasts and six on international outlets. Our spokespeople have covered issues as varied as Brexit, combat immunity, the SRA handbook through to employment tribunal fees and criminal injury compensation. Outlets have been as diverse as CNN, Australia’s ABC through to Sky, BBC News Channel, Women’s Hour and ITV’s Good Morning Britain.

We have conducted an overhaul of our solicitor index to help in our drive to increase regional coverage.

We have focused on expanding our media contacts and now have regular meetings with journalists who cover a range of issues – Brexit, business, human rights, access to justice, personal finance. These relationships help us insert issues of concern to the solicitor profession and the general public into a much wider range of stories.

We have held two media receptions – one in London another in Brussels and have pursued coverage in overseas markets.

In the year to 31 Oct 2017 the Law Society of England and Wales issued 156 media statements. During the same period, 4651 articles mentioned the Law Society with 1046 featuring the Law Society president and 649 other spokespeople. We also sent 4030 tweets – these were seen 13.66 millions times and interacted with 134,000 times.

Our Twitter following on our main Law Society account grew by 13.1% up from 77,000 to 87,100.

In 2018 we aim to build on these achievements – even more broadcast and we will continue to push for coverage in consumer print media. This year we have had repeated success getting into the FT, Guardian, Times, Mirror, Mail, Independent, Telegraph and many other papers and outlets including the New York Times, Bloomberg, Press Association, Telegraph, Buzzfeed, and the Huffington Post. We’ve also featured in the full range of trade press and regional papers.