

Country Report

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The Law Society of England and Wales

The Law Society of England and Wales undertook a series of steps to adapt to the changing legal market and economic landscape in 2013, including:

Issues Identified

1. Legal Aid
2. Civil Justice
3. Alternative Business Structures
4. Outcomes Focused Regulation
5. Education and Training
6. Professional Indemnity Insurance
7. Will writing
8. QASA
9. AML
10. 2013 Diversity Data collection for SRA
11. MoJ review of legal services regulation

1. Legal Aid

Background

- Following the significant cuts to the civil legal aid, the main concern in 2013 has been over criminal legal aid.
- The Ministry of Justice (MoJ) consulted on price competitive tendering (PCT) for criminal legal aid services in April 2013. The Law Society strongly opposed the plan, which also removed client choice of lawyer; required firms to bid at least 17.5% below current rates; required firms to provide services across large geographical areas (Criminal Justice Areas – generally counties); and would mean up to 75% of firms failing to secure a contract and being excluded from the market – in many cases effectively bankrupting them.
- Following intensive negotiations, the MoJ agreed to restore client choice and discuss with the Society alternatives to price tendering, with a view to consulting further in September 2013. In late August 2013, the MoJ agreed to remove a revised proposal for price tendering from the new consultation, and to consult on a proposal that would allow firms that meet a basic standard to have an “own client only” contract, and to offer a limited number of duty solicitor contracts, following a competition based on capacity and capability factors. There will be restructuring of fee schemes and a 17.5% cut, but fees will still be set by the Government instead of firms having to bid a price. In return, the Society agreed to accept the two-tier approach and to welcome the changes the MoJ had made; however, the MoJ has accepted that we must still oppose the cuts.

The Law Society's position

- The revised proposals are the best achievable outcome in the circumstances; we achieved our key aim which was to defeat PCT.
- The original crime proposals included the prospect of up to 75 per cent of firms not receiving a contract, and those remaining at the mercy of price competition; we have succeeded in removing this possibility.

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- 'Holding out' for a better deal would not have resulted in the fee cuts being removed; the Government is under an economic imperative to make cuts to the budget; and there is no majority in Westminster to ring-fence the legal aid budget.
- We continue to make clear our opposition to these cuts, and we succeeded in getting the cuts phased in two parts, which will allow for the impact of the first cut to be assessed. However, we remain of the view that the cuts pose a significant risk to the stability of the supplier base.
- The MoJ response to consultation is expected towards the end of January.

What is the Law Society doing?

- We agreed to support the structure proposed in the paper, in exchange for the concessions provided by the Government.
- We have submitted a response, which included our views on the fee cuts and other aspects of the proposals which we did not agree to; primarily the new fixed fee schemes proposed.
- Our key concern is to ensure the financial viability of as many firms as possible;
- We have commissioned research jointly with the MoJ to determine the minimum level of work required to give a reasonable assurance of viability for the duty contracts. The results of this work will also provide an idea as to the impact of the fee cuts.
- We have commissioned Deloitte to undertake work exploring the various options for business models for tendering, in order to provide as much support and advice as possible to firms through the tender process, and also to those firms wishing to exit the market. The intention is to produce a downloadable 'pack' for the profession that can be supported by webinars, road-shows and other awareness raising events.

Adapting to the new environment:

- We are also actively engaged in dealing with issues arising from the Legal and Sentencing of Punishment of Offences Act (LASPO) cuts and assisting the profession to adapt to the post LASPO environment:
 - We are gathering evidence of the impact of LASPO in the form of case studies and surveys for completion by our members, with the aim of publicising the consequences of the cuts and seeking to influence policy of political parties in the run-up to the 2015 general election.
 - We are considering the impact on litigants in person; the feasibility of pro-bono initiatives and the possibilities for family court duty solicitor schemes.
 - We published a Practice Note (PN) on 'unbundling' family legal services. The cuts to legal aid and the need to make legal services more affordable for clients means many firms are now offering some level of unbundled services. We are currently working on a revised PN to include non-family civil work.
 - We are working with the Public Law Project on a scheme to assist in the submission of exceptional funding applications, and to identify appropriate test cases to try to push the limits of what can be brought back into the scheme via this route.

2. Civil Justice

Current Issues

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Reforms to civil costs rules

A significant number of changes have been made to the rules governing costs in civil cases were implemented on 1st April 2013

The general view at the moment is that it is too early to assess the impact of the. Many cases were issued prior to the 1st April “cut off” date and those which were issued post 31st March will take time to filter through the system. The situation is being monitored.

Particular concerns arise over Damages Based Agreements (DBAs) due to the considerable confusion caused by the drafting of the Regulations governing them. The MoJ is still considering whether or not to amend the Regulations but MoJ.

New Costs Management/Capping/Budgeting Rules

There can be no doubt that this is the main area that solicitors have experienced the impact of the Jackson reforms. The Rules now impose strict time limits and requirements for firms to submit budgets for the costs of a case. A number of firms have had sanctions imposed for failure to comply with the new rules which has resulted in cases being struck out or significant costs penalties. This is one area where a number of firms may be at risk of claims for negligence.

Referral fees

Since 1st April 2013 the payment or receipt of referral fees has been prohibited in personal injury claims. However, there is some anecdotal evidence filtering through that some forms of payments continue to be made by some solicitors. Whilst this is a matter for the SRA it is a reputational issue which the Society will need to consider and act upon if necessary. The situation is being closely monitored.

Non–Personal Injury Small Claims Limit increase

The Government increased the non-PI small claims limit from £5000 to £10,000 on 1st April 2013. It has also indicated that it will be reviewing the limit at a later stage with a possibility of it being increased to £15000.

There is currently no evidence available on the impact this has had on non-PI litigation. Research is being planned to provide a baseline against which impacts of civil justice reforms can be measured in the future.

Personal Injury Small Claims Limit

The Government consulted on increasing the small claims limit for personal injury claims which involve whiplash. This was brought about by their concerns concerning the ease of fraud in such matters, the expense of such claims and the effect this has on insurance premiums. The intention is to deter fraudulent and exaggerated claims. The proposals could, however, affect an estimated 500,000 genuine claims.

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The Parliamentary Transport Select Committee conducted an enquiry into whiplash claims and the Chief Executive gave evidence to the Committee on behalf of the Law Society. The subsequent report was somewhat critical of insurers' claims about the extent of fraudulent claims and did not support an increase in the small claims personal injury limit.

The MoJ published its response and confirmed that at this time it would not increase the limit but that it would keep it under review. The Society had undertaken extensive lobbying on this issue and hailed the decision as a success. However, on more than one occasion the Government has indicated that it will look again at the current limit.

The Society is now participating in a cross-stakeholder MoJ working group, which is considering the issues of accrediting medical experts and improving the medical assessment process in whiplash claims. It is also participating in parallel talks on data sharing between insurers and claimant solicitors to combat fraud.

Legal Expenses Insurance and Third Party Capture

The Society will shortly be launching calls for evidence in the first quarter of 2014 on insurer behaviour in relation to legal expenses insurance and third party capture. This evidence will inform the Society's longer term campaign to have these practices scrutinised in public and Parliamentary fora. The first stage of evidence gathering will be distribution of surveys to solicitors. The quality of the evidence gathered will depend very much on the engagement of our membership in this exercise, and we encourage their responses.

The Society will also shortly be meeting with insurers to continue work on standard terms for non-panel solicitors under legal expenses insurance.

A related issue is the potential for insurer manipulation of the legal services market and conflicts of interest arising from insurer ownership of both claimant and defendant firms that deal with claims via ABSs.

What is the Law Society doing to help the profession?

- We will be continuing with general monitoring of the reforms and constructively engaging with the judiciary and MoJ in order to identify areas for improvement.
- We have published a new model Conditional Fee Agreement (CFA) and interim advice for use in personal injury claims.
- We are publishing a CFA Practice Note and model CFA assignment.

Events

The Law Society organised regional civil justice roadshow work shops in Autumn 2013 to assist the profession in dealing with changes to management of litigation cases by the courts, including costs budgeting.

Insurance

- The Law Society on 24 June launched a PR campaign encouraging members of the public to use a solicitor when undertaking claims for personal injury. There is likely to be

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a robust reaction from the insurance industry and their allies in the press and so a firm rebuttal line has been prepared by our Comms department.

- There is a campaign webpage for firms (<http://www.lawsociety.org.uk/representation/promoting-the-profession/>) and a separate one for consumers (www.dontgetmugged.co.uk).
 - The campaign will run for six weeks.
 - Campaign materials for local promotion by members and their firms can be ordered free of charge – information on our website.
- The campaign received some excellent feedback via consumer research that we carried out and has been well received generally by the claimant community. The ABI has written to the President asking that the campaign be terminated and the President has responded robustly to this mis-placed request.

3. Alternative Business Structures

What is the issue?.

The SRA began licensing ABSs in early 2012. To date there are 233 ABSs who have been licensed by the SRA, a small proportion of the total number of firms regulated by the SRA. For this reason, and because of numerous other changes in the legal market including the Jackson reforms and changes in legal aid it has been difficult to fully gauge the impact of ABS on the market.

Law Society position

We believe that ABSs provide opportunities. There seem to be varying opinions within the profession between those who view ABSs as a threat, those who believe ABSs will offer new opportunities for well-run firms and those who think ABS will not make much difference. We have seen that many of the ABSs created are not new entrants but solicitor firms converting to ABSs – ABSs provide an opportunity for existing firms, allowing them to form tie ups with other professionals, promote non-solicitors to partner level and seek outside investment to grow their business.

Current state of play

As of 28 January 2014, 233 ABSs have been licensed by the SRA, and these include:

- large new entrants like Co-op
- existing firms tying up with other service providers e.g. wealth management firms
- firms seeking external investment from private equity firms or individuals
- firms wishing to promote non-lawyers to partnership level
- firms listed on stock exchange
- claims management firms.

Research on the impact of ABSs

The LSB has undertaken some research on the impact of ABSs on the legal market. The research focused on the SRA regulated market. It is difficult to assess the impact of ABSs on the market as the timeframe considered is relatively short and there have been other major changes to the market therefore we need to treat the results with caution.

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Key points are summarised below and include:

- Market shares have changed very little in most market impacts
- ABS firms are concentrated in the personal injury segment of the market and account for 20% of market share (this is divided evenly between new entrants and firms who have converted).
- ABS firms appear to use technology to deliver services to a greater extent with 91% of ABS surveyed saying they have a website compared to 52% in previous surveys of solicitor firms.
- New business structures appear to be more productive using the measure of turnover per fee earner
- Publicised innovations have been most prominent in ABS firms and larger firms (however, this may be because of greater media interest in ABS firms and the ability of larger firms to garner press attention).
- Regulation is still reported to be a significant barrier to innovation

The LSB also highlights that new business structures are better at resolving complaints at the first tier though they receive more than other firms. We would be cautious about using the data collected by the SRA on first tier complaints to draw any conclusions. The data is self reported by firms and views on what is a complaint are subjective. This may lead to a variation in numbers reported.

What are we doing?

- An organisational priority for 2014 is to enhance the services and products targeted at ABS.
 - We are keen to hear practitioner's thoughts on how they are faring in the world of ABSs and how we can best support them.
 - ABSs represent a diverse group of organisations. From existing firms forming tie ups with other professionals, promoting non-solicitors to partner level and seeking outside investment to grow their business, to new entrants to the market, such as the Co-op.
- Much of the guidance targeted at the various existing segments of the market e.g. small firms, top 100 and at accreditation schemes related to various specialities will be relevant to ABSs.
 - We provide guidance to those considering setting up an ABS on our website, via practice notes and through our publications.

4. Outcomes Focused Regulation (OFR)

What is the issue?

The SRA implemented a new outcomes-focused approach (OFR) to regulation in October 2011.

What are we doing?

We have been monitoring developments since the implementation of OFR. In summary:

- Cutting regulatory red tape – We responded to the SRA's 'Red Tape Initiative' consultations to lobby for the removal of unnecessary regulations and the simplification of regulatory processes where possible. This SRA initiative is part of its continuing commitment to regularly review its regulatory processes and procedures. We continue to

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monitor developments in this area. Our responses to these consultations can be found here: www.lawsociety.org.uk/representation/articles/cutting-regulatory-red-tape/

- Compliance Officers – All recognised and licensed bodies must now have in place a compliance officer for legal practice (COLP) and a compliance officer for finance and administration (COFA). The majority of COLPs and COFAs started to fulfil their duties from 1 January 2013. The SRA is still in the enforcement stage for the small number of firms that are yet to nominate. We are continuing to look at COLP/COFA reporting requirements, particularly in relation to material and non-material breaches. We aim to provide guidance to the profession as this area develops.
- OFR surveys – In February 2013, the SRA released its survey, 'Measuring the impact of OFR on firms'. The SRA reported that perceptions of OFR have become more positive but it still has work to do in embedding the regime.
- Law Society guidance and support includes information on the website and practice notes to the profession on OFR-related issues:
 - The Compliance Officer practice note, along with the FAQs, were recently updated.
 - Following recently released information from the SRA, the practice note on, 'Collecting, reporting and publishing diversity data' has also been updated.
- Services are also provided through the Law Society's Practice Advice Service, the Risk & Compliance Service, e-learning packages, seminars and training courses.
- We have provided specific support to those who have taken on the COLP/COFA roles; practical advice has been offered through the Compliance Reference Group which considers specific questions around compliance and COLP/COFA roles for Top 100 firms. We intend to expand this offering in 2014.

5. Education and Training

Issue

The Legal Education and Training Review

- The LETR was published on 25 June and we are currently digesting the recommendations in light of the regulators' initial statements on priorities.
- The recommendations cover most aspects of the legal education and training continuum. Of particular note are those encouraging the inclusion of greater ethics, management and equality and diversity training and better provision of information to those entering the professions. There are also recommendations around the recognition of paralegals, but not that they should be regulated.
- The SRA issued a high level policy statement last year setting out the short to medium term plans that they have in place to address the recommendations. All the regulators have indicated that their CPD systems will be amongst the first things to be addressed, along with the current day one outcomes used by the SRA. Consultation on individual issues should then follow in 2014.
- The LSB has issued a consultation on high level guidance that they can address to the regulators, to ensure that the key recommendations are addressed.

Law Society Position

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The Law Society welcomes the LETR report and notes that a number of the elements that were put forward in our responses have been taken on board by the review team. We are continuing to engage with the profession in order to form our views as the regulators digest the report. The Society will also be engaging closely with the regulators to present the professions interests. The key elements on which we are continuing to engage are:

- Support for alternative routes into the profession so long as they meet the current high standards.
- Lobbying for the inclusion of ethics training in the undergraduate degree as the report suggests only that they should be included in the later stages.
- Support for measures that will improve access to the profession, including around social mobility, such as apprenticeships being developed as a possible route to qualification by Skills for Justice.

What is the Law Society doing to help the profession?

- The Law Society has engaged with the profession to represent their views to the research team and the regulators – our online survey had nearly 500 responses. We now plan to look at how best to continue with this engagement.
- We are continuing to meet with the regulators regarding the way in which education and training is evolving.

6. Professional Indemnity Insurance (PII)

Issue

The Law Society worked hard to overcome a number of shocks that hit the solicitors' PII sector in the last twelve months.

- Balva, a Latvian insurer with no rating in the UK, entered the PII market during the 2011/12 renewal period. Since it had no UK presence, it did so via the Icelandic unrated insurer, European Risks Insurance Company (ERIC). By 2012/13, Balva had acquired 1,500 firms on its books. In March 2013, the Latvian regulator placed a restriction order on Balva preventing it from writing any new policies or renewing any existing policies in the UK. Balva is now in the liquidation process though the progress and likely outcome remain uncertain. Although Balva's regulatory issues were well-known months ahead of renewal, many of their policyholders believed that they had a two-year deal. The consequences for these firms have been serious. An intermediary in the UK made arrangements to cancel Balva policies mid-term to be replaced by policies provided by the unrated German insurer, Berliner Versicherung Aktiengesellschaft (Berliner). As a consequence of action taken by the German regulator, Berliner decided not to be involved in the market for solicitors PII in the UK, leaving the policyholders looking for alternative cover. This resulted in considerable confusion and uncertainty for the firms concerned in the run-up to renewal at the start of October.
- The economic downturn affected firms, small firms in particular. This in turn affected the underwriting of risks. XL, previously one of the largest solicitor firm insurers, effectively withdrew from the solicitor PII market, particularly from the small firms sector.
- The Assigned Risks Pool (ARP), the safety net for firms which were unable to obtain insurance on the open market, was closed to new firms by the Solicitors Regulatory Authority (SRA) as of 1 October 2013. The ARP continues to be run down as firms either

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secure insurance on the open market or close. For firms still within ARP, funding will be shared by the profession and the insurers.

- Transitional arrangements were introduced to help firms cope with these changes in the run-up to renewal of policies by 1 October 2013. Firms that ran into problems in securing insurance by this date and who would otherwise have been forced to close, were able to benefit from the introduction of the Extended Indemnity Period (EIP). The EIP provided for up to 90 extra days to find cover before the SRA closed a practice. If firms were unable to obtain alternative cover during the 30-day EIP, they had a further 60 days Cessation Period (CP) to plan to close in an orderly fashion before the end of the year, during which they were not permitted to take on new work but could continue to work for existing clients. The process was similar to previous years when firms entered ARP and exited by obtaining cover within 30 days.
- It is not possible to quantify the number of firms that did not close as they benefitted from the additional 90 days of the EIP/CP because the status of firms contacting the SRA fluctuated during the period as practices sought to secure cover. Some firms managed to obtain insurance at the last minute, just before closure of the CP. We believe there were up to around 180 firms in EIP at one point. 136 firms closed at the end of the CP but some of these would have done so for reasons other than difficulty in securing insurance.
- We recognise that there is a very human cost of any firm failure. The Society offered support for firms within the EIP and CP who faced some very tough decisions.
- Nonetheless, the SRA will need to take effective measures to ensure firms do not continue to trade without insurance, otherwise the entire profession will pay for any uninsured claims via the Compensation Fund.

What is the Law Society doing to assist firms facing difficulty in obtaining insurance?

- There is help and guidance available on our website:
<http://www.lawsociety.org.uk/advice/surviving-the-storm/>
<http://www.lawsociety.org.uk/communities/small-firms-division/articles/professional-indemnity-insurance-renewal-situation-october-2013/>
<http://www.lawsociety.org.uk/advice/articles/extended-indemnity-period/>
- There is also a PII Helpline on 00 44 20 7320 9545
- The Law Society entered into a joint venture and launched a new managing general agency, Chancery Pii. This is designed to address the Law Society's concerns about the increasing number of 1-4 partner firms turning to unrated insurers for PII cover. We are committed to establishing a sustainable, stable and long-term market for solicitors' PII.
- This renewal period reinforced our ongoing concern about the cost and quality of the advice given by some brokers. We have raised our concerns about this with the Financial Conduct Authority.

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- At the time of Balva's failure in June 2013, the Law Society warned affected law firms to investigate carefully their alternatives and make an informed choice before opting for cover from another unrated insurer.
- The Law Society has deployed a consistent and strong education campaign over the last few years with warnings about the financial security of insurers. From January 2013, we ran a 'Stay Afloat' campaign recommending that firms research the available market and obtain quotations from all insurers willing to offer cover for the 2013 renewal period.

PII reforms that have taken effect since 2013

- The single renewal date has been removed from 1 October 2013 with then object of taking the pressure off firms and insurers around that date. Take up of variable renewal is likely to be slow initially.
- Post six years run-off cover provided by the Solicitors Indemnity Fund (SIF) was extended until 2020. We will be considering the position beyond 2020 as part of our work this year. Ultimately, it is for the SRA to decide whether or not this cover should continue. If it is no longer funded collectively by the profession, then former partners of ceased firms may need to decide to take out individual cover.

7. Will writing

Issue

Regulation of will-writers

- The Law Society has campaigned for the regulation of will writers for some years.
- The Legal Services Board recommended to the Lord Chancellor that will writing should become a reserved activity. While we welcomed this recommendation we were disappointed it was not extended to cover estate administration activities, where there is arguably, significantly more scope for fraud and consumer detriment than will writing.
- The Lord Chancellor decided to reject the recommendations of the LSB. This was not unexpected, nevertheless, it is disappointing following the campaign.

Law Society Position

- The Law Society's aims to ensure that:
 - Any proposed rules governing all will writers, whether or not they are solicitors, should enable a level playing field and ensure consistent standards for the public.
 - Solicitors are properly trained and supported in writing wills – we have developed an accreditation scheme for solicitors doing this work.

What is the Law Society doing to assist the profession?

Wills and Inheritance Quality Scheme (WIQS)

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- We have developed an accreditation quality scheme to cover will writing, probate and estate administration activities to drive up standards and provide a quality mark for solicitors in this area. Following the Government and Lord Chancellor's decision that will-writing activities should not be subject to regulation, we believe that the proposed scheme (which provides a code of practice and an expectation of service standards) will help consumers make informed decisions in this specialist area of advice.
- Membership of the scheme will enable practices to differentiate themselves in a crowded market. If and when regulation is extended, the quality mark will continue to provide a means of differentiation in a crowded and fragmented market. The scheme will also drive up service quality standards and help consumers make informed choices when choosing legal services.
- The scheme was launched in July 2013 and opened for applications on the 31st October.

8. Quality Assurance Scheme for Advocacy (Crime) – QASA

The regulators of solicitors, barristers and legal executives have established a scheme whereby advocates in criminal cases must be accredited at the level of the case. The judges are to be involved in assessing the competence of individual advocates.

The Law Society's Position

The Law Society is committed to improving advocacy. However, we think QASA, which has been devised by the Joint Advocacy Group (JAG—the SRA, Bar Standards Board and ILEX Professional Standards Board), is disproportionate to the nature of the problem, bureaucratic and burdensome.

Current state of play

Registration to join the scheme was to be introduced on a rolling basis with the first two Circuits starting in September 2013 and running March 2014. Others would then follow up until October 2014. After that date it will be a professional disciplinary offence for an advocate to appear in a criminal court without authorisation from a regulator.

A judicial review has taken place regarding the LSB's decision to approve the scheme (the Law Society intervened in the case). Judgment was handed down on 20 January. The three judges rejected the arguments of the claimants, ruling the scheme to be lawful, not in contravention of European law and within the legitimate exercise of the powers of the LSB. Unusually the judges made suggestions to improve the scheme

The three regulators are now studying the judgment and reviewing aspects of the Scheme in line with the judgment where appropriate or necessary.

What is the Law Society doing to assist the profession?

- The Law Society has consistently made robust representations about QASA to the SRA. Working with practitioners we have won significant concessions to reduce the potential negative impact for solicitor advocates; many of whom conduct plea only work.

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- The Law Society pressed both the SRA and the LSB to postpone the implementation of QASA because of the confusion over which firms will hold legal aid contracts from 2014 if the Government proceeds with the introduction of PCT.
- In 2012 we established the Advocacy Section and introduced training courses for solicitor advocates.
- We are working with the Advocacy Section and also the SRA to ensure there is suitable guidance for those affected in the 'first wave'. This will be produced once we have clarity from SRA on the process following the judicial review.

9. Anti-Money Laundering

What is the issue?

- Anti-money laundering (AML) obligations apply to all solicitors in England and Wales. Failure to comply with these obligations is a criminal offence for the individual solicitor and brings the profession into disrepute.

Law Society position

- Compliance with money laundering obligations is one of the greatest challenges for solicitors in the UK today. The Law Society is committed to assisting solicitors meet those obligations and provide a robust defence against money launderers attempting to abuse our professional services.
- All AML obligations imposed upon solicitors must be clear, workable, and proportionate, while protecting legal professional privilege.

Fourth European Money Laundering Directive

- The European Commission released the draft of the 4th European Money Laundering Directive in early 2013. Key changes proposed in the new directive include:
 - law firms will be required to have written risk assessments, policies and procedures as well as a process for testing their effectiveness;
 - the extension of enhanced due diligence for politically exposed persons (PEPs).
- The changes to UK law are likely to take place in 2015 with draft proposals expected in late 2014.
- The Law Society's two main areas of concern with the proposals are changes to the due diligence requirements for pooled client accounts and new data protection measures requiring the premature destruction of documents.
- We have drafted amendments to the directive which if supported would allay our concerns and these have been tabled by a number of MEPs.
- The Law Society continues to liaise with MEPs in an effort to garner support for our amendments whilst also speaking to the Commission and EU Member State officials on this and other aspects of the proposals.

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- The EU parliament vote on amendments tabled will take place in mid-February with the final vote by Member States due to be held in late March.

10. **2013 Diversity Data Collection for SRA**

What's the issue?

- In 2011, the Legal Services Board (LSB) published [statutory guidance](#) (PDF 462 kb) setting out its expectations of approved regulators in relation to measuring levels of diversity and social mobility in the legal workforce.
- As a result, practices regulated by the SRA – including sole practitioners, recognised bodies and alternative business structures – are required annually to collect, report and publish workforce diversity data about the make-up of their workforce. These requirements do not apply to regulated individuals working for in-house practices or other bodies currently not regulated by the SRA.
- The SRA published information about the 2013 data collection exercise at the end of April. The exercise is closely aligned to the LSB model questionnaire, although firms are free to ask additional questions of their staff if they wish.
- The SRA has published guidance and Q&As, which can be found online at: (<http://www.sra.org.uk/sra/equality-diversity/diversity-data-collection.page>).

Law Society Position

- The Law Society supports the collection of equality and diversity (E&D) data for the following reasons:
 - to assist us to make informed policy decisions and help us to understand the make up of our membership and provide suitable support, guidance and best practice tools;
 - as a commitment to our individual members to work on equality issues which impacts upon their experience of working in the legal sector.

What is the current state of play?

The SRA has confirmed that:

- Each practice is required to collect, publish and report its workforce diversity data to the SRA - the SRA is not offering an online survey as it did in 2012, which was the first year of data collection, so practices must now make arrangements to collect their own data
- Following this, practices are required to publish a summary of their workforce diversity data, for example on their website. If practices do not have a website, an alternative is a notice in reception informing individuals that a copy of the workforce data is available upon request.
- The SRA intends that the arrangements set out in 2013 will be consistent for 3 years so that the profession does not need to change their systems and it can begin identifying trends.
- Practices are expected to report on diversity data between 15 July 2013 and 31 January 2014.
- As this is the first year in which legal practices have to collect, report and publish the data themselves, there may be some concern amongst medium to small practices who may be

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collecting this information for the first time. They should seek advice from the SRA if they need to

The Law Society has

- worked to provide a free online tool to help firms collect, report on and publish their diversity data.
- We have updated our practice note on this topic in light of the recent information from the SRA.
- We have updated the reporting and monitoring protocol that sits under the Diversity and Inclusion Charter with the new model questionnaire and best practice guidance; and
- We have aligned the diversity data requirements for the Charter annual review to the SRA requirements so that Charter signatories can use the same collected data for both the SRA reporting and for the Charter reporting.

12. The Future of Regulation

What is the issue?

- The Ministry of Justice issued a call for evidence about the regulatory system for lawyers and how it was working.
- A project team was assembled with the purpose of taking a long term and high level view of the future of regulation. The subject was identified as an area where Law Society thinking would benefit from taking a project based approach, and on the basis that the topic is seen as a priority for members. A number of key external drivers informed the choice of topic, including:
 - The level and pace of regulatory change that has been observed over the last decade;
 - Significant concerns from different parts of the profession as to how the current regulatory system impacts on them and their business;
 - A government with an appetite to reduce regulatory burden;
 - The impending review of the Legal Services Act in 2015;
 - A reference group, composed of leading specialists, was also established to act as a 'critical friend' to contribute to the work of the project team. The team also collaborates with relevant Boards and committees.

What are we doing?

- The project team was assembled in May 2013 and is due to conclude activity in November. During the first three months of the project (the research phase), the team identified the problems with the current system and explored the issues that sit behind them. The team

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also benchmarked the system of solicitor regulation against other legal systems and other against other professional services that are heavily regulated in the UK.

- The research phase consisted of a combination of desk-based research and face to face interviews with the solicitors drawn from the different segments of the profession. The views of other stakeholders from academia, the consumer lobby and Parliament were also obtained.
- Based on the evidence gathered during the research phase, the team developed a number of 'structural models' upon which the future regulatory regime could be based. This work helped inform the Law Society's response to the MoJ Call for Evidence.

The Law Society made the following recommendations:

- The different professions should continue to be responsible for the regulation of their members;
- Training, authorisation to practise and standard setting are the direct responsibility of the Law Society;
- Investigation and prosecution of offences are undertaken at arms' length by an operational arm of the Law Society with independent decision making powers, but reporting directly to the Society.
- A reformed LSB, chaired by a judge and with a significantly reduced staff, should oversee the work of the professional bodies and directly oversee the work of the Legal Ombudsman and the professional Disciplinary Tribunals
- Consideration should be given to shortening the Regulatory Objectives.

We expect a decision from the MoJ in quarter to 2014 and continue to engage in dialogue with them and other bodies on this issue.