

News Round Up

(covers 1 July to 24 August 2023)

Top stories

Government launches Professional Enablers Taskforce to increase action against those who ‘help migrants exploit the system’. The taskforce includes regulators, law enforcement and Government departments. To mark the launch, the Home Secretary held a roundtable meeting with the Lord Chancellor and Justice Secretary Alex Chalk KC MP (the LC), the SRA and the Office of the Immigration Services Commissioner to emphasise the Government’s drive to bring prosecutions against ‘crooked immigration lawyers’. The taskforce is intended to improve intelligence sharing by regulators and law enforcement. The Government acknowledged that the vast majority of lawyers act properly but noted news reports about a small number encouraging migrants to make false claims. TLS emphasised it was not in the profession’s interest for lawyers to act improperly or illegally but questioned the Government’s focus on a ‘tiny minority of lawyers’ while claim backlogs remained. The Bar Council (BC) said lawyers that broke rules should be sanctioned, but the taskforce should not identify lawyers with their clients’ causes. Twelve lawyers have been convicted of assisting unlawful immigration in the past two years. The LSB has said it will review regulators’ enforcement tools, including financial penalties, to ensure they are sufficient to tackle wilful and serious misconduct.

SRA acts on Daily Mail story about lawyers assisting clients to make false asylum claims. The SRA closed down the three firms named in the story, suspended three solicitors’ practicing certificates and restricted a legal advisers’ ability to work in a solicitor’s firm without its permission. The LC urged the SRA to use the ‘full force of sanctions at its disposal’ and urged it to re-examine the immigration sector as soon as possible. The BC criticised the Prime Minister’s statement that the story showed the Labour Party, a subset of lawyers and criminal gangs were ‘all on the same side.... In response, BC Vice-Chair Sam Townend KC said *“Lawyers are not beyond reproach, and all professions have individuals who commit misconduct and are dishonest. Regulators are there to discipline them. The comments by the prime minister, ... [undermine] the rule of law, trust in lawyers and confidence in the UK legal system.”* SRA CEO Paul Philip said its decision to shut down the firms was based on the evidence it had received and was not due to Government pressure. Mr Philip reiterated the SRA’s call to be given unlimited fining powers for both solicitors and firms as this would encourage firms to self-regulate and better deter misconduct.

SDT to oppose unlimited fining powers for the SRA because it says these would diminish the current independent, impartial and transparent regulatory framework which provides fairness and serves the public interest. The SDT said it would fully engage with the LSB’s consultation. **In its response to MoJ’s consultation, TLS said the proposed 15% increase to legal aid rates for immigration lawyers dealing with removal notices was not enough to deal with Rwanda asylum cases.** Duncan Lewis, the UK’s largest legal aid asylum and immigration firm said it may have to stop representing asylum seekers threatened with being sent to

Rwanda because the proposed increase was 'unworkable'. A joint letter to the LC from 66 legal aid providers, representing around 60% of the immigration and asylum sector, said the immigration legal aid system needed systemic reform as well as a rise in hourly rates if plans to deal with the migrant crisis were to work. The 66 firms said they would reduce work on asylum claims and decline all new work under the Illegal Migration Act unless the Government improves its offer. Since 2021/22, 25 legal aid providers have ended contracts with the MoJ, reducing capacity by 5,390 cases a year.

Lord Chancellor (LC) says Government "will always respect" legal aid lawyers.

The LC said there would be a 'total reset' in how the Government spoke about legal aid lawyers, and that he wanted them to be able to make a good living. Increases in legal aid funding would address the decline in the number of duty solicitors. The Government was committed to reducing the criminal courts backlog and had reconvened the Criminal Justice Board to address the issues facing the system. The LC said access to justice was his main priority. To address the issues facing the system, TLS called on the LC to ensure courts were fully used and accept the Bellamy report's recommendations on criminal defence solicitors' pay. The Association of Prison Lawyers also called on the Government to implement the report's recommendations. The judicial review of the decision not to accept the report's recommendations to increase criminal legal aid fees by the minimum of 15% will start in November. **The BC is preparing a letter before action to the MoJ over the fixed recoverable costs advocacy fee.**

Political developments

Post Office was concerned that IT expert's findings would set a precedent about claims that the Horizon system was not operating correctly. Lawyers acting for sub-postmasters said it was clear the Post Office was seeking to cover up its own expert's opinion that Horizon was defective. The inquiry is now adjourned until September. **Post Office Inquiry Chair Sir Wyn Williams described the failure by the Post Office to disclose thousands of documents as 'grossly unsatisfactory'.** Inquiry counsel have raised the possibility of using section 21 of the Public Inquiries Act to require persons to give evidence or produce documents. **Post Office CEO Nick Read to return £54,000 bonus paid to him for the handling of the Horizon scandal.**

Lord Chancellor says lawyers should stop 'parading their politics'. The LC said there was a 'regrettable trend' of lawyers identifying with their clients' causes. He also said lawyers should avoid becoming involved in political opposition to Government policy.

NAO to review legal aid sustainability. The study will look at the Government's progress on understanding costs and savings from the LASPO reforms, how Government ensures legal aid provides access to justice and how well Government works with others to manage the legal aid sector's financial sustainability.

Government provides additional £10.4m to Improving Outcomes through Legal Support grant scheme. 59 charities will be able to provide free legal advice and support services for those facing welfare, housing, family or debt issues, including

free legal representation if cases go to court. TLS said Government data showing a rise in landlord possession claims and repossessions highlighted the need for more legal aid funding. It welcomed the Government's new Housing Loss Prevention Advice Service but said it would only work if there were enough providers.

Welsh First Minister Mark Drakeford to quit Senedd at next election in 2026. He is expected to stand down as First Minister before then, but no date is set.

Regulatory developments

Appointments: BSB appoints Kevin Gould as Vice-Chair of its Independent Decision-making Body. Mr Gould is a chartered accountant and an independent adviser on governance and assurance matters. **Mark Evans elected TLS president for 2025.** Mr Evans will be Deputy Vice-President in 2024. He previously worked as a property and private client lawyer and is now a tutor at the University of Law. **SDT appoints former Deputy Clerk Deborah Baljit as its new Chief Clerk and CEO.**

BSB to launch apprenticeships to improve access to the Bar for candidates from underrepresented backgrounds. A BSB-commissioned report found the traditional qualification route was unaffordable for 78% of students. The BSB also had concerns about low pass rates for Black students and will conduct a thematic review of training providers, admissions and support provided to students.

BSB publishes 2022/23 Annual Report. The BSB improved the speed of its regulatory decision-making, closing 119 investigations in the second half of the year compared to 60 in the first. The BSB had also encouraged best practice, made progress on its Well led Action Plan and sought to improve recruitment and retention.

BSB says it cannot stop review websites covering barristers. The BSB is currently running a pilot with review websites which has found that online comparison of barristers is well-established. The pilot will help the BSB to consider how it can influence online comparison, so it benefits consumers and the profession.

CLC consults on 10% increase to practice fees. The increase would be the first change to its fees since 2021. Individual licence and compensation fund fees would remain unchanged. The CLC calculates practice fees on firms' turnover data and for the first time since 2009, total practice turnover has fallen, meaning its practice fee revenue would decrease without the proposed increase. The CLC also noted the need to run a surplus budget to build its reserves to protect against uncertainty. It also cited increases in oversight regulators', including the LSB's, levies as reasons for the proposed increase.

CRL consultation finds seven out of ten legal executives do not consider changing their regulation to be a priority. The consultation was conducted in response to plans by CILEX to switch their regulation to the SRA. CRL said the consultation showed support for it retaining its current role. **Uncertainty over legal executives' regulation may be driving switch to CLC.** 112 legal executives moved to the CLC in the past year compared to a previous average of ten a year.

CILEX consults on plans to move regulation of legal executives to the SRA. CILEX will need to amend its charter, and the LSB would need to approve the redelegation. This means the changes would not take place until at least 2024.

CILEX's Board approved the redelegation to the SRA because it was better able than CRL to meet the tests CILEX had set. CILEX Chair Linda Ford said 'chartered legal executive' would remain the protected title, but specialist titles like 'chartered property lawyer' and 'chartered litigator' would be better understood. CILEX lawyers would keep their distinct identity and have the same competence as solicitors in areas where they have practising rights. The SRA will shortly publish a consultation on changes it needs to make to accommodate CILEX members. CRL has said it has concerns about CILEX's proposals' compatibility with the regulatory objectives.

Department for Education announces CILEX apprenticeships to receive same funding as those for solicitors. Employers will be able to use the apprenticeship levy for all stages of qualifying as a CILEX lawyer. Changes were also approved allowing CILEX lawyers to become recorders and Upper Tribunal judges. In future they will be able to certify copies of powers of attorney and be duty solicitors.

The Insolvency Service reprimanded ICAEW for failures in its monitoring of an insolvency practitioner under restrictions, who subsequently absconded having misappropriated £4m.

SRA publishes 2012/22 annual reports. The SRA said it received 10,121 reports about concerns in the past year, with a quarter coming from inside the profession. 1,741 were referred for investigation. The SRA completed 1,528 investigations that found no breach. It applied sanctions in 301 cases. The SDT heard 76 cases, leading to 36 strike-offs and 10 suspensions. The SRA increased spending on disciplinary processes to £16.5m (up £1.5m) to address investigation delays. The report also showed that **probate clients were paid £7.8m from the Compensation Fund**, the most ever for one area of law. **SRA backs increasing PCF contributions by £13.5m.** Solicitors will pay fees of £307 in 2023/24 compared to £286 this year. The SRA is expected to receive £162 from the overall fee, up 7%. TLS has yet to confirm the amount allocated for representative functions. The total SRA budget will increase by £10m to £98m. This will be partly covered by other sources of income like SQE exam fee increases, which will rise by 11% in response to inflation.

SRA prosecutes Dentons, the world's largest firm, for alleged AML rule breaches. Dentons is alleged to have not taken adequate steps to establish the source of a politically exposed client's wealth or funds between 2013 and 2017. The SRA is also prosecuting Clyde & Co for alleged AML breaches.

SRA reports on NDAs between employers and staff and law firms' role in drafting them. Solicitors needed to be aware of power imbalances between employers and employees. While the SRA did not find direct evidence of law firms drafting non-compliant clauses, it did find examples of practices that could deter disclosures of wrongdoing. It also found only one in eight firms provided training about NDAs. Over a third of fee earners were unaware of the SRA's warning notice. The SRA will review its warning notice and address gaps in solicitors' knowledge.

April/May 2023 SQE2 results show overall pass rate of 77%, up 6% from October 2022. The ethnicity attainment gap was similar to those seen in previous rounds, although disabled candidates performed as well as able-bodied ones.

The OLC's annual report said LeO's measures to resolve cases early had exceeded expectations. LeO resolved 9,487 complaints in 2022/23, 44% more than in 2021/22. 5,380 were resolved under its early resolution process in an average of 64 days. LeO did not meet its target for reducing its pre-assessment case pool (3,109 cases), which still has 4,282 cases, down from 5,862 last year. LeO faced recruitment and retention challenges due to a competitive recruitment market. One in four complaints made to LeO since it introduced new time limits fell outside them. So far LeO has decided to investigate 75% of out-of-time complaints. It said deciding whether to investigate these complaints was resource intensive.

LSCP annual tracker survey finds the number of legal consumers shopping around fell to 39% in 2023 from a high of 43% in 2022. 80% of consumers felt they had a choice of provider. Only 4% of consumers used customer review sites to choose a provider. Consumers found it harder to find information about legal services and prices on firms' websites. They were also slightly less likely to rate the service they received as good value for money. Consumers' belief that they received good value was highest for will-writing and lower for conveyancing, probate and criminal law services. Around a fifth of consumers had used an unbundled service.

LSCP's response to SRA's draft Corporate Strategy for 2023-26 says the SRA should consider how regulation can promote access to justice. The LSCP says this should include the SRA using its work on legal education and regulatory standards to do what it could to ensure there are enough social welfare lawyers.

CMA launches call for evidence on unregulated will writing, online divorce and pre-paid probate services. Although unregulated services could be cheaper, the lack of regulatory protections meant consumer protection laws had to be effective. Concerns about will writing included consumers being misled about prices, contract terms and pressure selling. Concerns about online divorce providers included misleading claims about the process's simplicity, prices and poor service. Concerns about pre-paid probate included pressure selling and plans being sold to people who did not need them.

ICO reprimands firm targeted by phishing attack. It said Swinburne, Snowball and Jackson had failed to process data safely and protect its systems despite there being relevant NCSC and SRA guidance. The firm reported the attack to the SRA and repaid money to clients but had been unaware that it had to report to the ICO.

Market developments, intelligence and research

UK CPI inflation falls to 6.8%. Core inflation, not including food and fuel, remained unchanged at 6.9% while service sector inflation increased to 7.4%. Despite the fall analysts expected the Bank of England to raise interest rates again in September.

Prospect of recession increases as factory output falls; Standard and Poor Global's/CIPS UK Manufacturing PMI fell to 45.3 in July, its lowest level in 2023 and the joint worst since 2020. **Nationwide said UK house prices were down 3.8% in July from the same time last year.** **RICS monthly report found house sales slowing** as mortgage rates deterred buyers. **Bank of England predicted monthly mortgage payments could increase by £500 for a million households** by the end of 2026 and by between £200 and £500 for another two million. **Rising interest**

rates push more households into debt. Citizens Advice said its clients who could no longer afford their home had almost doubled in a year. It was unable to help around half those seeking financial advice as these people were only spending on essentials.

TLS predicts single-digit PII premium increases in 2023 after 2022's average 12% increase. Conveyancing practices saw a 25% increase and spent 8% of their turnover on PII compared to an average for all law firms of 5%. Firms with five to ten partners saw the largest increases. 13% of firms switched insurer in 2022, but four out of five only approached one insurer for their renewal. Two insurers, Travelers and Scompo, have over 40% of the market. Only 28% of firms have cyber insurance despite rule changes in 2021 that expose them to losses if they are attacked.

TLS report on attitudes to legal tech adoption in the UK says legal professionals 'sitting on the fence' on new technologies. While legal professionals were not resistant to technology, they needed support from the sector's senior leaders to keep up with other professional services. Out of 650 solicitors surveyed less than a third used lawtech daily. A Thomson Reuters report found 75% of UK lawyers believe AI will lead to an increase in legal work carried out by people without traditional legal qualifications and 81% thought AI would improve the profession's diversity. **LexisNexis says 64% of large UK law firms are exploring generative AI's potential, along with around a third of smaller firms.** 90% of nearly 1,200 lawyers and legal support workers surveyed had concerns about AI's ethical implications.

LegalUK calls for establishment of a National Institute for Legal Innovation to bring together legal and technology experts to harness AI's potential.

Law firms filed over 1,000 legal tech patents globally, but only one in the UK. China filed 755, the US 178 and South Korea 118. 59 patents involved AI.

Digital Property Market Steering Group including TLS, CLC and the SRA to develop 'e-conveyancing'. All-digital conveyancing has legally been possible since 2002, but previous attempts to set up a system have failed.

Innovate UK and the ESRC to invest £26.5m in the Next General Professional and Financial Services programme to help the professional and financial service sectors develop and use digital technologies.

Number of claims management companies falls from a high of 3,213 firms in 2011 to 546 in 2023. The Association of Consumer Support Organisations said the reduction could affect access to justice and consumer choice.

Law for Life launches appeal after Government refuses application for funding for its Advicenow website. Since the legal aid cuts, the Government has funded Advicenow as the main portal for litigants in person in England & Wales. Law for Life called on the LC to reverse the decision. **National Lottery to give £30m to advice agencies over five years.** The Access to Justice Foundation said this would fund 75 legal advice providers and help meet demand caused by the cost-of-living crisis.

LawWorks research shows 75% of constituents at MPs' surgeries raise legal issues. The report said MPs and their staff needed training on legal issues and that advice charities needed increased funding to deal with constituents' problems.

InterLaw Diversity Forum launches revised Career Progression in the Legal Sector study. The SRA-sponsored study will look at factors influencing culture, job satisfaction and job security from a diversity perspective and how social mobility and protected characteristics affect career progression.

Slaughter and May sets social mobility target to increase the percentage of its lawyers from lower-social economic backgrounds (LSEB) from 10% to 15% by 2033. LSEB workers make up 34% of Slaughter's support services. It wants to increase this figure to 40% by 2033.

Campaign group Next 100 Years' survey finds most female legal professionals do not feel workplace measures on career progression barriers are effective.

Only 45% said their workplaces' actions were effective, but 67% believed their workplaces were committed to removing barriers. Just 54% of respondents were confident work was allocated fairly between men and women, with 20% believing it was not. Mentoring schemes were offered by less than half of organisations, but 79% of respondents considered them effective. **Encompass Equality report finds that workplace culture**, not personal issues like the menopause or caring responsibilities, is the main reason professional women leave their jobs.