News Round Up 3 October – 1 November 2024*

Top stories

Legal Services Consumer Panel expresses profound concerns about the LSB Axiom Ince review's findings saying they highlighted 'an urgent need for significant regulatory improvements within the legal services sector' including targeted oversight measures for firms' classified as high risk, steps to ensure client money is protected, the strengthening of consumer protection measures and increased transparency of firm's operations and finances. **The Law Gazette** said the findings should call a halt to the proposed takeover by the SRA of the regulation of CILEX legal executives and stop the SRA acquiring further fining powers. **Legal Futures** commented that the report not only raised questions about the SRA's performance, but that the LSB should also consider whether it needed to have a more proactive regulatory approach. It also asked whether moves toward 'outcomes-focused' and 'light-touch' regulation had gone too far but also questioned whether solicitors wanted to pay for increased regulation.

SRA bans two former non-solicitor employees of Axiom Ince from working in the profession without its permission. The SRA imposed section 43 orders on Muhammed Ali, who caused or allowed payments totalling £54.5m to made improperly from the firm's bank account and Jayesh Anjaria, for altering bank statements with the intention to mislead others, including the SRA.

Justice spending to rise by £1.9bn in Budget. The Chancellor announced real-terms spending increases for the Ministry of Justice (MoJ) over the next two years to repair the justice system. The MoJ's day-to-day budget will rise from £10.4bn in 2023/24 to £11bn in 2024 and to £11.8bn in 2025/26, with a 4.3% annual real-terms growth. Capital spending will also increase significantly to provide more prison places, with a 14.9% average real-terms increase from 2023/24 to 2025/26. Total spending will rise from £11.9bn in 2023/24 to £13.8bn in 2025/26. Additional investments include £2.3bn for prison expansion, £500m for recruiting staff, £220m for maintenance, and 106,500 Crown Court sitting days in 2024/25. Funding for the Law Officers' Department will also increase by 7.5% annually. The Law Society (TLS) noted the budget's increased funding for prisons, the CPS and probation but said funding for civil and criminal aid and to address increasing court backlogs was also necessary to rebuild the justice system. It previously said any further cuts to justice funding would be untenable and highlighted how increased productivity in the justice sector could increase annual investment in the UK economy. The Bar Council welcomed the overall settlement for justice in the budget but said the sector would need sustained funding through next Spring's spending review to move away from crisis mode.

SDT plans to raise 2025 budget by 25% as it expects more referrals. It said prosecutions arising from the Post Office and Axiom scandals in mid-2025 could lead to further increases in 2026. The SDT's proposed increase from £2.5m in 2024 to £3.1m in 2025 was due to it estimating it would need to sit for 300 days in 2025, up

* Microsoft Co-Pilot AI has been used to assist the drafting of this report. All summaries of articles have been reviewed for accuracy and revised as necessary prior to the report's submission to the Board.

from 260 in 2024. However, recent SDT budgets, once exceptional circumstances like moving premises are excluded, have tended to be around £3.1m, making 2024's £2.5m an outlier. The SDT said it had been stretched in dealing with an increased caseload in 2024. It also highlighted disruption to its caseload planning caused by the SRA and accused solicitors reaching agreed outcomes at short notice. SRA CEO Paul Philip said he was surprised by the SDT expecting the SRA to file Post Office and Axiom cases in mid-2025. While the SRA and SDT routinely meet to discuss future work, it was too early to say when the SRA might file any such cases.

MPs whose constituents have been affected by the collapse of SSB Law pledge to lobby Government to act. Representatives of victims and other interested bodies said the term 'no win, no fee' was misleading. Imran Hussain MP put down an early day motion highlighting the importance of home insulation measures but noting the consequences for people whose cavity wall insulation (CWI) was improperly installed. The motion calls for an immediate investigation covering how residents have been left with damaged homes and legal bills totalling thousands of pounds and for the Government to investigate the role and conduct of legal firms involved. Miatta Fahnbulleh, Parliamentary Under Secretary of State for the Department for Energy Security and Net Zero, has agreed to meet both MPs and victims of the CWI and SSB scandal. At Justice questions, Minister of State Heidi Alexander MP said she was aware of concerns about the collapse of law firms SSB, Axiom and McClures and that the SRA and LSB were looking into these cases.

Political developments

Government expected to give magistrates in England and Wales powers to sentence offenders for up to 12 months instead of 6. This would allow magistrates to try more serious crimes and could reduce the number of prisoners on remand, which reached an all-time of 17,000 in June, amounting to 20% of the prison population. The Criminal Bar Association and TLS criticised the proposals, saying they would increase the prison population and fail to deal with court delays.

Anti-SLAPPs campaigners call for revival of SLAPPs bill. The previous bill fell away because of the election and the new Government did not include a revived bill in its manifesto or the King's Speech. The Society of Media Lawyers accused anti-SLAPPs campaigners of promoting a misleading narrative about the extent of the problem and called for the issue to be referred to the Law Commission.

SRA's first prosecution of an alleged SLAPP. The case concerns a solicitor who acted for former Chancellor of the Exchequer Nadhim Zahawi in a defamation claim. The SRA alleges that Ashley Simon Hurst, head of client strategy at Osborne Clarke, sent correspondence to tax commentator Dan Neidle that was intended to improperly restrict Mr Neidle's right to publish the correspondence or discuss its contents.

Criminal legal aid firms issue new contract warning to Justice Secretary. More than 100 firms have warned the Justice Secretary that they have submitted bids for new criminal legal aid contracts, but they may not sign them if the Government fails to increase their remuneration. The MoJ has been heavily criticised for asking firms to bid for new contracts before it has published its consultation response on police station and youth court fees and its revised decision following a High Court ruling on fees. The Government has also yet to say whether it will accept the Criminal Legal Aid Advisory Board's recommendations, which have yet to be published. **TLS issues guidance to criminal legal aid firms advising them to conduct 'viability reviews'** to determine whether they should cut back on providing services or are able to continue to provide them at all. TLS President Richard Atkinson said up to now lawyers' dedication had allowed governments to avoid the hard decisions that needed to be made on criminal legal aid, but that this goodwill had run out. TLS issued the guidance following last month's launch by the MoJ of the procurement process for the next criminal legal aid contract, which will begin in October 2025 and run for 10 years. The deadline for firms seeking slots on the 2025 duty solicitor rotas is 22 October 2024. This is before the Government is due to publish (1) its consultation response on police station and youth court fees and (2) its response to January's judicial review ruling requiring it to reconsider its response to the Bellamy review. Mr Atkinson said TLS was willing to go back to court if the Government did not publish its response to the Bellamy review.

Legal Aid Agency reports drop in firms awarded civil legal aid contracts. TLS said the decrease, the first in the number of providers after new contracts had been awarded, highlighted its concerns about an 'exodus' from legal aid work. TLS also said areas without housing legal aid had doubled, with 43.6% of England and Wales (20 procurement areas) lacking local housing legal aid providers. Concerns have been raised that the lack of housing legal providers will undermine the reforms included in the Government's Renters' Rights Bill. TLS has called for a 20% fee uplift as an interim measure. **Advice UK report says 9 in 10 advice agencies are experiencing increasing demand, but 61% may cut services due to financial issues.** The report highlights the need for sustainable funding to prevent a crisis in the advice sector, which supports around 1.7 million clients. Without investment, many people could be left without crucial support on issues like debt, housing and health, exacerbating their crises and increasing pressure on other public services.

Civil Justice Council (CJC) publishes interim report on litigation funding. The report and consultation contain no conclusions, but they indicate concerns about the adequacy of the Association of Litigation Funders' code of conduct, the lack of control over the amounts take from damages and whether before-the-event (BTE) insurance could play a bigger role in litigation funding. The Government has said it will not legislate on the Supreme Court's ruling in PACCAR until the CJC publishes its final report, which is due in Summer 2025.

Regulatory developments

CMA warns seven unregulated will and online divorce service providers about unfair practices as it issues new guidance for the sector. It cautioned the currently unnamed firms about practices like aggressive upselling, refusal of refunds, and poor complaint handling, and advised them to act on its recommendations or face investigation and enforcement action. The CMA also released new guidance for unregulated firms to ensure fair practices, emphasising the need for clear contract terms, reasonable care in service provision, and avoidance of misleading comparisons with regulated professionals. The CMA will monitor the sector and expects to conduct a review to assess will writing, online divorce and pre-paid probate businesses' compliance with consumer law. It also published new guides for consumers to help them choose will writers or divorce service providers.

BSB reports more barristers undertaking pupillage. Its annual regulatory decisions report says 614 barristers started pupillages in 2023/24, up from 535, 539 and 416 in 2022/23, 2021/22 and 2020/21, respectively. The report also found a 25% increase in applications to practice, with more than 40% of them coming from qualifying lawyers seeking to transfer to the Bar. **BSB intends to bring in external solicitors to help clear its backlog of applications by foreign lawyers.** It has discovered the majority (75%) of applicants intend to practice in England & Wales rather than just use the title as a marketing tool. In the year to 31 March 2024 over half of transfer applications came from Pakistan, Bangladesh and India, while 20% were from solicitors qualified in England and Wales who want to cross-qualify. New transfer applications are still exceeding clearances, despite the BSB's appointment of a four-person internal taskforce. The BSB also plans to speak to regulators in other jurisdictions to map their qualifications and possibly sign memoranda of understanding to reduce the checking required for each application.

SRA publishes independent report into overrepresentations of BAME solicitors in its enforcement processes. Research by York, Lancaster and Cardiff Universities found the overrepresentation was a result of a range of factors, including ethnicity, gender, age firm size and practice areas. The universities looked at how ethnicity affected the likelihood of a report being received or taken forward for investigation. This analysis found that compared to White solicitors, Asian solicitors were 14% more likely to be reported to the SRA, and Black solicitors 9% more likely. White solicitors were 8% less likely to be report than BAME solicitors. When the SRA assesses whether complaints should be investigated, complaints about Asian and Black solicitors were respectively 54% and 43% more likely to be investigated than complaints about White solicitors. Reports about White solicitors were 35% less likely to be taken forward for investigation than those about BAME solicitors. The SRA said it was committed to taking meaningful action to address the issue and to work collaboratively with others to do so. Although the research did not find evidence of direct bias in the SRA's processes, the SRA recognised that there were steps it could take, including improving its approach to handling data to help it better understand the reasons for the overrepresentation. TLS encouraged the SRA to use data better to understand the factors in its processes that are unrelated to firm size and practice areas.

TLS President says new SRA fining powers will weaken regulation, not strengthen it. Richard Atkinson said the SRA's proposals would effectively cut the SDT, with its expertise and defined and transparent processes, out of the disciplinary process by seeking to apply high financial penalties in serious cases which would be better dealt with by the SDT's powers to suspend or strike solicitors off. He also suggested the SRA's proposed single financial penalties framework, which takes account of its new powers to impose unlimited fines in economic crime matters, is unfit for purpose and may be unlawful. He reiterated TLS's opposition to any further extension of the SRA's fining powers in non-economic crime cases. **The SDT raised similar concerns about the SRA's proposed framework**, saying the largest firms may regard fines of up to £500k issued by the SRA as a problem to be dealt with on ‘cost/benefit basis’ rather than a credible deterrent.

SRA publishes findings of its corporate strategy benchmarking research. The research, conducted by Thinks Insight and Strategy, found three-quarters of consumers and SMEs said they have both trust and confidence in legal services and believe legal services are well-regulated, but consumers’ awareness of legal regulation was low. 62% of the profession felt legal services were well-regulated but 21% did not. The most important drivers of trust in legal services were high standards, high-quality training and qualifications and transparent cost structures. 47% of legal professionals agreed that the SRA’s actions improved trust and confidence. Some legal professionals thought the SRA was disproportionate in its enforcement action and punished minor breaches too harshly. Thinks Insight said the presence of legal regulators enforces consumers’ trust and confidence although many are not aware of the SRA or that not all legal services are regulated. The SRA will rerun the research following the conclusion of its current corporate strategy in 2026 to assess whether its and others’ work has changed levels of trust and confidence. TLS criticised the timing of the report’s publication and said the SRA should have waited for the LSB’s report on the SRA’s handling of the Axiom Ince and SSB Group cases. It said the SRA should focus on its core roles of setting standards, assessing and acting on risks, addressing non-compliance, protecting consumers from harm and the reputation of the solicitors’ profession. TLS called on the SRA to cooperate with it on supporting solicitors in navigating ethical issues.

SRA includes more price transparency work and a new approach to firms running bulk claims in its 2024/25 business plan. It will consider expanding its cost transparency rules to more areas of law following stakeholder feedback indicating the importance of transparency to consumer trust. It is also developing a framework for bulk claims litigation following the significant collapses of firms like SSB Law and Pure Legal. Other changes to its business plan include taking forward issues emerging from its consumer protection review and improving its approach to identifying and managing risk. The SRA said accommodating these priorities may lead to higher practising fees in future, but it would look at reprioritisation, efficiencies, and using reserves to manage its budget. Last month, the LSB approved rule changes requiring firms regulated by CILEx Regulation to publish price and service information for all legal services. SRA CEO Paul Philip said the SRA could take a similar approach, but its Board had not yet discussed doing so.

SRA reduces its number of investigations older than two years from over 162 in July 2023 to 60 in June 2024. A Board paper said new targets and process changes implemented in July 2023 had created a more efficient working environment. The SRA also met all four of its main timeliness targets, including conducting 80% of initial assessments within two months and concluding 98% of investigations within 24 months. However, it only resolved 52% of investigations within 10 months, against its target of 70%. The SRA plans further steps to improve its performance.

Former Metamorph executive chair takes up new director post. Tony Stockdale, who is not a solicitor and remains the sole director of Metamorph, has become a director at Legal and Professional Services Limited, which was partly owned by Metamorph until November 2022. Mr Stockdale was Metamorph’s executive chair during the group’s acquisition of a number of law firms over the past decade. Metamorph ran into problems, leading to SRA interventions into several of the group’s firms. All Metamorph-owned firms subsequently closed.

HM Land Registry (HMLR) says mistakes in applications to alter the Land Register could be costing conveyancers £19m. Conveyancers’ failures to get names right are estimated to cost up to £3.6m a year in fee-earner time. HMLR produced the figures as part of its effort to reduce the number of ‘requisitions’ it raises with conveyancers when applications are incorrect. It said 22% (947,000) of the 4.4m applications it received in the past year required a requisition. It was also looking at how to assist conveyancers with submitting correct applications and how common errors could be ‘designed out’.

Market developments, intelligence and research

Court of Appeal rules motor finance dealers breached their fiduciary duty to customers by failing to disclose commissions received from lenders. It found dealers' failure to disclose commissions created a conflict of interest and consumers were therefore unable to exercise informed consent. The Court ruled that lenders must repay these commissions to borrowers, which could lead to billions of pounds worth of mis-selling claims. The money owed to all consumers could be up to £42bn.

TLS issues guidance to support Black and minority ethnic students entering the profession. Nearly a fifth of the profession is made up of solicitors from minority ethnic backgrounds. However, the guidance acknowledges that the job market can feel more overwhelming for minority ethnic students who are also having to overcome assumption-based barriers and lack of representation. The guidance covers topics such as securing training, building confidence, making connections, useful contacts and funding opportunities such as TLS’s Diversity Access Scheme.

Research by Obelisk Support finds a gap between EDI policy and practice at law firms and in-house legal departments. 29% of lawyers said their organizations lacked formal EDI strategies and delivery plans. Despite 71% having a formal DEI strategy and delivery plan at their workplace, only 24% said they felt “very empowered” to deliver on EDI objectives, “suggesting a gap between leadership’s commitment and the empowerment felt by those in the legal departments”. Over 40% of lawyers expected their organization's investment in EDI to increase, though some noted challenges in justifying this amidst other priorities. Firms needed sufficient staff resource and senior executive buy-in to pursue EDI goals effectively.

Criminal Bar Association (CBA) tells Bar Council (BC)-commissioned independent review into bullying, harassment and discrimination that high standards and intellectual rigour have led some barristers and judges to believe they are always right and be intolerant of challenge. The CBA said inappropriate conduct is often wrongly justified by ‘higher objectives’ such as trying to win a case. It also said a small minority of perpetrators commit sexual harassment, but accused persons often have had ‘reputations’ for several years, which suggests they are tolerated, or people are afraid to report them. It called for mandatory training for all practising barristers on bullying, harassment, and sexual harassment as well as equality, diversity and inclusion. It said chambers should have to offer independent complaint mechanisms, and an independent ombudsman should be appointed to oversee chambers' complaints handling. The CBA also said the Judicial Conduct Investigations Office's three-month time limit for complaints should be relaxed. **The LSB shared a response to the review, suggesting that bullying and harassment are not confined to the Bar,** and it is looking at measures to establish high standards of professional ethical conduct, as well as introduce refreshed EDI policy to tackle evidenced issues in the profession. The LSB said its own research supported wider sectoral research findings, including those of legal charity LawCare, which show concerning levels of bullying, harassment and discrimination in the wider legal profession. The LSB also noted that progress in improving diversity across the sector had been too slow, and that 'disruptive action' may be needed to create a 'fair, healthy, diverse and inclusive legal profession.' It said regulators have a role in ensuring conduct that may undermine public trust and confidence in the profession is recognised and addressed. The LSB expects to consult on proposals on professional ethics in the coming months. It will also consult on a new policy approach on diversity by next Spring. **Female barrister groups say the BSB is not holding male barristers to account for bullying women.** In response to the independent review's call for evidence, Behind the Gown, Right to Equality and Her Bar said the BSB's failure to act on harassment and bullying of women created the perception it was complicit and ill-equipped to handle such complaints. They also said the BSB's complaints process can be used to harass female barristers and criticised the BSB's use of barristers and solicitors to assess complaints about barristers as not being impartial.

Report from UK mental health platform Unmind finds mental health challenges cost 'large law firms millions.' Researchers said most of the productivity losses were caused by 'presenteeism' – i.e. people working when their wellbeing was poor. Stress, lack of fulfilment and lack of support from firms were the main drivers of poor mental health at work. The research found poor wellbeing cost the smallest firms, with an average of 600 staff, an average of £6.8m while the largest firms, with an average of 2,400 staff, lost an average of £65m. The report recommended that firms better balance demand with resource, invest in and integrate wellbeing and mental health support and make mental health a compulsory part of leadership development. This last point was echoed by new guidelines published by the Mindful Business Charter (MBC) which say lawyers' approach to wellbeing should be part of their performance assessments.