

## Chancery Lane Update 29 June 2020

# President's Update



Dear colleague,

### [Your weekly Law Society update](#)

As the professional body for solicitors, every week the Law Society is working hard to influence the legal and regulatory environment on behalf of our profession and to promote solicitors at home and abroad. We support practice excellence, are an informed source of legal sector news and support members at every stage of their career.

### **Solicitorspirit**

We have promoted our new campaign to highlight the great work the profession has been doing for clients and the community during the pandemic. You can read more [here](#).

The latest twitter messages, including member comments and video are [here](#)

Please encourage your members to share their stories.

### **Practising fee consultation**

You will know that we are communicating with members about our proposed reduction in our portion of the practising fee.

The detail is [here](#)

### [A Gazette article from Paul Tennant explains more](#)

We have already received more than twice as many responses than last year and the consultation remains open until July 10.

Please encourage your members to respond.

### **Justice**

#### [Reassurance the probate service is under review](#)

We have had another helpful meeting with HMCTS and other professional bodies regarding the probate service. HMCTS have been able to identify additional resources to deal with an expected increase in probate requests following the coronavirus crisis. This increase includes more applications

being sent by solicitors as the lockdown continues to ease, coupled with the increase in Covid-19 related deaths. They have assured us the service is under control but there may be some short term impacts on processing times whilst the extra resources they have put in place become fully effective: <https://www.lawsociety.org.uk/news/stories/reassurance-the-probate-service-is-under-control/>

## Regulation

### Meeting with Competition and Markets Authority (CMA)

The TLS policy and research teams met with the CMA as part of our ongoing engagement on its review of its 2016 Market Study of the legal services market. Although they are yet to decide exactly when the review will go ahead, their current thinking is to launch in the Autumn with an aim to report back by the end of the year. As part of this they will revisit the findings and recommendations from their 2016 report. We are in regular contact with the CMA and will be feeding into any review in the Autumn.

## Commercial and Technology

### DAC 6 – deferral confirmed by Government

The government has confirmed that it is deferring the first reporting deadlines under the UK's regulations implementing DAC 6 by six months. The government states that this will provide taxpayers and intermediaries dealing with the impacts of the covid-19 pandemic with additional time to ensure that they can comply with their obligations, an approach that we have supported in our discussions with HMRC. The six-month deferral is in line with the approaches announced by a number of other implementing jurisdictions. HMRC intends to publish guidance shortly to help businesses in their preparations to meet their reporting obligations.

## Parliamentary

### Corporate Insolvency and Governance Bill

On Tuesday 23 June, the Corporate Insolvency and Governance Bill had its report stage and third reading in the House of Lords. We briefed peers ahead of the debate. A full transcript of the debates can be found here ([report stage](#)) and [here \(third reading\)](#). The Bill passed and will be returned to the Commons for consideration of Lords amendments.

### Justice Select Committee

On 23 June, the Justice Select Committee heard evidence in relation to their inquiry into the impact of Coronavirus (COVID-19) on prison, probation and court systems. The committee heard from Robert Buckland QC, justice secretary, Susan Acland-Hood, CEO, HM Courts and Tribunals Service and Dr Jo Farrar, CEO, HM Prison and Probation Service. Following a briefing from us James Daly MP asked if the lord chancellor thought there was any merit in removing the requirement for duty solicitors to have an office near a police station where they are on the duty solicitor rota, given that this is an extra burden on firms. Responding, Buckland said this was worth discussing in detail with the Legal Aid Agency and is an example of the effects of COVID.

## **We have been in the media this week to promote the role and value of the profession in difficult times**

The Law Society warned the coronavirus crisis could precipitate the collapse of criminal legal aid as we know it, revealing that there are already 124 fewer criminal legal aid firms than in 2019. [Solicitors Journal](#) and the [Justice Gap](#) quote me: "We have made clear since the start of the pandemic that criminal legal aid firms are facing a triple whammy: immediate cashflow problems, short to medium term permanent loss of income, and the pre-existing crisis of sustainability."

“Unless the government addresses all three, there is a serious risk of widescale market collapse,” I added.

The [Gazette](#) cited a response from the Junior Lawyers Division to the Ministry of Justice’s (MoJ) consultation on fees, that criminal legal aid work is not a sustainable career for young solicitors.

The [Financial Times \(£\)](#) reported that workers seeking legal redress for unfair treatment by their employer could be waiting up to two years for their day in court. The Law Society has argued that the delays will make it hard to establish the case law needed for employers to deal with fresh dilemmas presented by the Covid-19 crisis – such as how to choose which employees should return from furlough or be laid off.

The [Daily Telegraph \(£\)](#) reported that property transactions are being hit with new “coronavirus clauses” to mitigate the chaos caused by any fallout from the pandemic. Mark Sellers, a partner at Penningtons Manches Cooper, explained that Law Society guidance was for solicitors to assess all risk and include a coronavirus clause only if there was a serious risk to the transaction, noting that they will not become ubiquitous.

“If you do that, you have contracts where you are never certain whether the transaction will complete,” he said.

The [Solicitors Journal](#) reported that the employment tribunal backlog must be cleared before post coronavirus claims begin. I said: “Much uncertainty as to how covid-19 related disputes will be decided, as we are applying established employment law principles to entirely new circumstances”. Also in [New Law Journal](#).

I wrote a piece for the [Gazette](#) on how Brexit trade negotiations are continuing during coronavirus. I said: “With the UK set to leave the EU at the end of the year, the Law Society will work tirelessly to promote the interests of our profession and UK citizens and corporates with our international colleagues and stakeholders.”

The [Australasian Lawyer](#) reported our warning to government that criminal legal aid firms need better support. I am quoted: “We have made clear since the start of the pandemic that criminal legal aid firms are facing a triple whammy—immediate cash flow problems, short- to medium-term permanent loss of income and the pre-existing crisis of sustainability.”

The [Times \(£\)](#) looked at the complaints levelled at the Legal Ombudsman. I said: “We hope [the ombudsman’s] primary focus will be improving the service experience for all of its users, both legal service users and service providers.”

The Legal Aid Agency (LAA) has suggested that claims currently handled by the courts could be assessed in-house – reported in the [Gazette](#).

Richard Miller, our head of justice, said: “The LAA has not consulted us on the change itself, only on the mechanics of doing so. There is a significant conflict of interest where the assessor is also the paying party. In our response, we have emphasised the need for the assessment process to have a genuinely independent element to it.”

[City A.M.](#) looked at government proposals to scrap jury trials in some cases.

I described jury trials as “the bedrock of the criminal justice system”.

## **International Update**

On 9 June vice president David Greene attended a roundtable of international Bar leaders organised

by the German Federal Bar Association (BRAK) on the impact of Covid-19 on the legal profession around the world. Representatives from the Bar Associations or Law Societies from Germany, the Netherlands, the Russian Federation, Algeria, Hong Kong, France, Poland, Taiwan and Finland shared how their organisations had helped their members deal with the impact of Covid-19 and the work they had done on maintaining access to justice through periods of court closures and other quarantine measures.

On 11 June, I gave oral evidence to the EU Services sub-committee of the House of Lords to discuss how to avoid barriers to trade in legal services, free trade agreements, the global use of English law and England and Wales as the jurisdiction of choice for international dispute resolution. Watch the video here: <https://parliamentlive.tv/Event/Index/8e8e73a6-3e75-4d21-beed-3a51e52eb67c>

On 19 June I spoke at a roundtable of leaders of voluntary/semi-voluntary Bar Associations, organised by the German Bar Association (DAV). The roundtable focused on the impact of Covid-19 on the legal profession and was attended by leaders of several Bar Associations and Law Societies around the world. I spoke of the priorities for TLS in its response to the current crisis, including: protecting the rule of law; the physical health of our members; their financial health; and their mental health.

### Update from our Brussels Office

On 23 June, the Brussels team held a meeting with the Law Society Brussels Advisory Group, chaired by Marcus Corry, EU policy adviser. The aim of the meeting was to inform our members of the latest work done in the Law Society on the EU – UK negotiations.

On 24 June, Helena Raulus, head of office chaired the Brussels based UK organisations' (BBUKOO) legal issues task force meeting. The group gives guidance for the UK based organisations' offices in Brussels on various legal matters arising from the UK exiting the EU.

As always, please feel free to share this update with your constituents.

Kind regards,

Simon

**Simon Davis**

**President**

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