

research reveals small firms reluctance to engage lawyers

Independent reports published by the Legal Services Board (LSB) have revealed that small firms remain reluctant to engage with legal services providers such as law firms or in-house lawyers. The first report, published in 2013, analysed the results of a survey of around 9,700 small firms and represented the first in depth research into small firms' legal needs. The second report was published in 2015 when around 10,520 small firms were surveyed, including more than 1,400 respondents who took part in the 2013 survey.

The reports have revealed that just 10% of firms surveyed in 2015 had used a lawyer in the previous twelve

months, compared to 20% of respondents surveyed in 2013. In addition, only 13% of firms surveyed in 2013 and a similar number in 2015 viewed lawyers as cost effective. Micro firms were reported to be the least likely to consider lawyers as an affordable solution to legal problems.

Both reports also indicate that many small firms prefer to go it alone when they have legal problems, with around half of firms that had experienced problems dealing with them on their own.

Even when legal advice was sought from outside the firm, the likelihood of it being from a law firm has been decreasing. Just 15% of firms that

had sought outside legal help in 2015 chose to engage a solicitor, compared to 29% in 2013. However the number of firms who approached their accountant for help with legal problems increased from 19% to 21% over the same period. The most important factor considered by small firms when choosing a lawyer was reputation, followed by their legal specialism, whether they had used them before, and the cost of legal services.

Around four in ten firms surveyed in 2013 had experienced at least one problem that had a legal context or implication for their business in the preceding twelve months, but this has fallen to one third of respondents surveyed in 2015. The average number of problems per firm fell from 21 to 13 over the same period. One in five legal problems experienced by small firms in 2015 were related to trading, and almost one third of these were related to purchases of substandard goods or services. Around 6% of problems were related to tax or employment, 9% were intellectual property issues and just over 7% were related to commercial premises.

Read more about the reports at: <http://bit.ly/1R7bjmp>





Law Society urges intervention in LAA procurement crisis

The Law Society has written to the Legal Aid Agency (LAA) and to two parliamentary select committees complaining about the way that the LAA has conducted procurement for the new 'crime duty contracts'. These have been introduced as part of a government plan to cut the number of solicitors providing services in criminal courts. The LAA's procurement process saw the number of legal aid contracts fall from 1,600 to 527 under the new contracts, but its evaluation of tenders was described by whistleblowers as shambolic. It is alleged that staff assessing bids were inadequately trained and working to impossible deadlines. Jonathan Smithers, president of the Law Society, wrote to the LAA in

October, calling its management of the process "seriously flawed" and warning of widespread litigation and prolonged uncertainty that would place intolerable financial pressures on law firms.

The LAA is now facing 115 legal challenges from law firms in 69 of the 85 procurement areas in England and Wales. The new contracts, originally intended to commence in January, have been postponed until 1 April.

In letters to the chairs of the Justice Select Committee and the Public Accounts Committee, sent on 20 November 2015, Smithers asked the committee to investigate the LAA and suggested that "the cost of

litigation to defend a process which is subject to such a significant number of legal challenges is against the National Audit Office's three criteria for determining value for money – economy, efficiency, effectiveness." The Public Accounts Committee should, he said, intervene urgently and require the LAA to say how it intends to rectify the situation. The Treasury has also expressed concerns about the prospect of lengthy and expensive litigation and is understood to favour an LAA compromise deal with the law firms that are challenging its decisions.

To read more about the crisis in LAA procurement, go to: <http://bit.ly/1XJetv9>

Pro bono toolkit published

The Law Society has produced guidance for solicitors to help them manage their pro bono work more effectively. The new document, 'Developing a Pro Bono Programme', was published as part of the 14th annual Pro Bono Week, held in November 2015.

Almost 60% of law firms undertake some pro bono work, which, as well as helping communities, can support firms' business objectives and create opportunities for solicitors' professional development. But in a series of regional meetings with the Law Society many firms said that a more formalised approach would help them maximise the free legal help that they can offer to individuals, charities and community groups.

The Law Society's response has been the publication of a toolkit outlining how firms can choose a pro bono model that is right for them, whether that is volunteering at a legal advice centre, acting as the legal representative of a charity or community group, or supporting them by providing legal research. The toolkit also has details of

clearing schemes which match firms' expertise with community needs. It also shows solicitors how to record their pro bono work accurately, set targets and manage risks, insurance and costs.

Although the Law Society stresses that pro bono must never be viewed as a substitute for a properly funded legal aid system, it is "woven through the working life and identity" of solicitors, according to Law Society president Jonathan Smithers. "We believe this toolkit will help them and their firms

develop sustainable and effective pro bono programmes."

The toolkit includes tips, checklists, case studies and contacts. Its introduction stresses that "there is no 'one size fits all' approach to organising pro bono." Instead, the document provides examples of different ways in which firms have organised pro bono schemes successfully.

For more information and to download the toolkit go to: <http://bit.ly/1NrN7bA>



in brief...

Statutory ban on legal referral fees proposed

The Legal Aid Minister Shailesh Vara has announced plans to introduce a statutory ban on referral fees, which are paid by some advocates in return for receiving instructions from litigators, such as solicitors, who represent clients accused of criminal offences. Existing restrictions have not been effective in stopping this practice, as referral fees are often disguised as administration or management fees. The ban has been proposed to prevent conflicts of interest arising from a litigator's advice to clients about the choice of an advocate, and to ensure that clients are able to choose an advocate on the basis of his or her competence and not because they are willing to pay a referral fee. The introduction of an independent publicly-funded panel of criminal defence advocates has also been proposed by the Ministry of Justice to represent clients in more serious cases that are heard in the Crown Court and above. <http://bit.ly/1XJdRWv>

Solicitors Regulation Authority's (SRA) self-assessment is modest

The SRA has been modest in its 2015 self-assessment to the Legal Services Board (LSB) by humbly classifying its work as being at the level of 'undertaking improvement and work is well underway' rather than as 'satisfactory'. The SRA's self-assessment was made public for the first time this year to reflect its new transparent approach. However, some board members expressed the view that the SRA's high standards mean that it might never be able to grade its performance as satisfactory. Other board members also said that the way questions were phrased by the LSB to meet its own regulatory standards had constrained the SRA in its self-assessment. <http://bit.ly/1OHRA99>

Lawyers deny that legal sector is a money laundering risk

The UK National Risk Assessment of money laundering and terrorist financing report, published in October 2015 by the Treasury and Home Office, which claimed that conveyancing and client account facilities provided by the legal sector are a money laundering risk, has been criticised by lawyers as being misleading. The report alleged that some legal professionals are complicit in enabling money laundering and pose a threat to the reputation of the profession as a whole. However, although the report was welcomed by the SRA, other organisations such as the Law Society Legal Sector Affinity Group and the UK Anti-Money Laundering (AML) Supervisors Forum contended that the report was not based on robust research or evidence of arrest or prosecution statistics. As a result they have called for a more balanced view in future assessments. <http://bit.ly/21xk7VT>

New guidance about solicitors' accounts published

The SRA has set out new guidance explaining changes to reports that relate to solicitors' accounts covering accounting periods ending on or after 1 November 2015. The changes, which are designed to make the SRA's regulation more proportionate and targeted, include revision of the form of accounts to enable accountants to advise on ways to improve processes for handling client money. The changes exempt law firms that do not hold significant amounts of client money from obtaining an accountant's report. It also indicates the issues that accountants should consider, the checks they should undertake, and explains the factors that could result in a report being submitted to the SRA. <http://bit.ly/1IYYi17>

Report accuses Crown Courts of being ineffective

'Structured Mayhem', a report published by the Criminal Justice Alliance following two years' research, has concluded that Crown Courts are poorly run and old fashioned in relation to language, procedure and dress, while trials are often over-dramatic and chaotic. The report has also criticised courts for their archaic procedures that alienate people who are outside the legal profession, and highlighted the resulting delays that led to only half the trials scheduled in 2014 going ahead and the length of typical hearings rising from 304 to 360 days. The research also found that victims of crime and witnesses felt unsupported while at court and that the creation of the Witness Service Office had done little to tackle this problem. <http://bit.ly/1O5rbPL>

Increasing numbers of solicitors being instructed to draft wills

According to research from Will Aid, the number of people instructing solicitors to draft Wills during the four years from 2011 to 2015 rose by 2% compared with the period from 2008 to 2011. However, the number of people instructing Will writers fell from almost 20% in 2008 to less than 11% in 2015, while the number of people using Will writing services from banks and other organisations fell from just under 9% in 2009 to just under 6% in 2015. According to Will Aid, solicitors are still trusted by people to prepare valid Wills, as there have been numerous cases in recent years where Wills have been poorly-drafted by unregulated Will writing services or where people have been unable to inherit property that was incorrectly bequeathed. <http://bit.ly/1O5rbPX>



Solicitors Regulation Authority publishes updated Handbook

The Solicitors Regulation Authority (SRA) Handbook has been updated in line with the SRA's aim of reducing regulations that are not essential for protecting the interests of clients.

Published on 1 November 2015, the new edition of the Handbook is the fifteenth since its original publication in 2011. It simplifies the process for law firms applying to be licensed as 'alternative business structures' and amends the 'separate business rule', enabling solicitors to offer additional professional services. Instead of

restricting links with certain types of separate business, the new Handbook specifies requirements for client protection when separate businesses are associated.

Another significant change is the creation of an apprenticeship route to a legal qualification. This means that from 2016 it will be possible to become a solicitor, paralegal or chartered legal executive as part of the government's Trailblazer apprenticeship scheme.

The new Handbook also expands the exemption for firms to obtain an accountant's report and removes the requirement for compliance officers in small firms to be SRA licensed. It makes changes to the way that sole practitioners are authorised and removes the need for individuals

taking the Qualified Lawyers Transfer Scheme to obtain a certificate of eligibility.

"These changes are part of our commitment to reforming our regulatory model, encouraging growth in the sector and ensuring our approach is proportionate", says Paul Philip, the SRA chief executive. The SRA is the independent regulatory arm of the Law Society. Its Handbook brings together all of the regulatory requirements for solicitors, law firms and alternative business structures. Changes to the Handbook are subject to approval by the Legal Services Board, which oversees legal regulators in England and Wales.

For more information, go to: <http://bit.ly/1HHxiNM>

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many more ABSs likely to be created

Alternative business structures (ABSs) are set to grow rapidly in number after a slow start, according to the Solicitors Regulation Authority (SRA).

ABSs are multidisciplinary professional services firms that can be owned by non-lawyers and combine legal work with non-legal services, for example accountancy or property management. They were introduced in the 2007 Legal Services Act but were initially viewed with suspicion and a fear that "faceless super-markets" would out-compete highly trusted traditional law firms.

"Go back five years, there was a lot of discussion that it was a big risk to integrity, to the standing of the profession, but that has been proven not to be the case," said Paul Philip, CEO of the SRA speaking at London Law Expo 2015.

The SRA was slow to license ABSs at first. *"We tied up in knots,*

particularly about who owns the business and how much we need to go into the background of the character of those individuals." As a result only 429 ABSs have been established in the first eight years since the Act was introduced. However, this is set to change. The legal market is becoming more innovative as law firms recognise the need to compete with larger players such as the Co-op and the 'big four' accountancy firms, all of which have become ABSs. The SRA is keen to foster this trend by issuing licences more readily. Its new Handbook includes a simplified process for firms to become ABSs.

Expressing a hope that there would soon be thousands, not hundreds of ABSs, Mr Philip remarked that *"there is a massive business opportunity for SMEs in law to expand."*

For more info about the growth of ABSs, go to: <http://bit.ly/1XB602s>