

**Response of the City of Westminster and Holborn Law Society
To Legal Services Board Consultation Paper
“Internal Governance and Practising Fee Rules
Supplementary Consultation on proposed rules
to be made under sections 30 and 51 of the
Legal Services Act 2007 (c.29)”**

The City of Westminster and Holborn Law Society (‘CWHLS’)

The City of Westminster and Holborn Law Society (‘CWHLS’) enjoys perhaps the most diverse membership amongst local Law Societies, encompassing as it does, a membership ranging from larger firms, including those which have been called in recent years "the silver circle" down to small high street practices and individual in-house solicitors, including those working for public bodies and government. Our membership includes those who practice at all levels of the profession, including those who regularly represent solicitors in SRA investigations and members of the Solicitors Disciplinary Tribunal, and those who have practised extensively in the field of solicitors’ negligence and professional indemnity insurance.

Membership is voluntary and CWHLS is run by a committee comprising 33 solicitors representing a very wide range of specialisms. Its work is carried out by 11 specialist sub-committees, one of which, the Professional Matters Sub-Committee, concentrates on matters such as regulation of solicitors, matters affecting their practice, etc.

Response

We are only proposing to respond on one section only of the Consultation Paper, namely Part C of the draft Practising Fee Rules: “The Permitted Purposes”.

The Permitted Purposes

As currently drafted these appear to be over-restrictive, with the result that there is real doubt as to whether the representative arm of Law Society would be permitted to perform some of its proper representative functions. In this context it is necessary to remember that the “Approved Regulator” is the Law Society and not just the Solicitors Regulatory Authority (“SRA”). The Consultation Paper properly emphasises (paragraph 2.7 (c)) that the purpose of the proposed Rules “is to ensure that the exercise of an approved regulator’s regulatory functions is not prejudiced by its representative functions”. We do not quarrel with that. The separation of the SRA from the representative arm of the Law Society is designed to achieve

just that. Any actual or apparent conflict of interest within the approved regulator should be avoided.

Unless they are amended, the proposed Rules could have unintended consequences in stifling the representative arm. This would be unhealthy, and the quality of regulation would be likely to suffer as a consequence. Members of the legal profession will often have valuable insight into how proposals may affect themselves or their clients. The final proposals will often be improved by their input. The proposal in 3.15 that a majority of the regulatory boards should be non-lawyers makes it all the more important that there should be a channel whereby the views of such lawyers can be properly expressed, collated and considered. The issue of conflict of interest cuts both ways. It may be easy for a regulator to assume that it understands (or has obtained) the views of the profession. A vigorous and independent representative arm of the profession is much more likely to express these properly, and in their diversity.

Bearing all this in mind, we suggest that the following should be specifically stated to be permitted purposes:-

1. The promotion of measures designed to improve access to justice. On the basis that access to justice is a human right, this arguably is covered by C6 (e). However we think it should be specifically provided for.
2. Responding to proposals or consultation papers from the Government, the Regulators of the legal profession, the courts service or similar or analogous bodies that may affect the legal profession or some or all of its members or clients. This is an obvious function for the representative arm of the Law Society, and goes beyond what is covered by C6(c). The Law Society will usually be included among the consultees for consultation papers, so it seems sensible to include responding to such papers as a permitted purpose. In this way the proposals as enacted may benefit from the input of lawyers with relevant experience.
3. Upholding the interests of the legal profession, its members and clients.

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