



THE REPORT

CITY OF WESTMINSTER AND HOLBORN LAW SOCIETY NEWS

NO.30 SEPTEMBER 2004

THE PRESIDENT'S COLUMN



EDWARD SOLOMONS

The Law Society has just published its annual statistics for 2003, which make fascinating reading: 43 tables and 7 charts spread over 61 pages provide an authoritative snapshot of our profession, and the following extracts can give only a flavour of this. There are now 116,110 solicitors on the roll, of which 92,752 have practising certificates and 6,924 were admitted to the roll in 2003. 44.8% of practices are sole practitioners, but this amounts to only 8.5% of the profession. However 84.3% of firms have four or fewer partners, and this amounts to 30.2% of our profession. In contrast, just 1.6% of firms have 26 or more partners, but these amount to 37.3% of practising solicitors. 21.8% of solicitors are not employed in private practice. 54.5% of solicitors currently practising have been qualified for 10 or fewer years. 56.8% of new admissions were women and 17.3% were from ethnic minorities.

Some historical comparisons are interesting. In 1973 there were 27,379 solicitors with practising certificates; this increased by 57% by 1983, a further 42.7% by 1993 and yet a further 51.2% until 2003. Whilst women make up 40.6% of the profession, only 22.9% of them are partners, as opposed to 50.1% of men. This may partially be explained by the age distribution of sole practitioners and partners, as the average age of male partners is 46.4 and the average age of women partners is 41.8. Finally I noted that of 38 firms with over 80 partners, 30 were located in London (including 27 in the City).

This is my last Presidential Column and next month I am sure you will give a huge welcome to your new President, Jeffrey Forrest. I will not attempt here to summarise the content of previous

reports but would prefer to transfer an impression of the year. When having the good fortune to attend on behalf of the Society at various dinners and events around the country, and abroad, I have met not only hospitality and courtesy but a deep welcome demonstrating the huge respect in which our Society is held. This was due in no small part to the high quality of the work undertaken by our main committee and various sub-committees, in particular in responding to various proposals for law and practice reform. Within our Society, again I have been struck by the level of commitment and enthusiasm demonstrated by so many main and sub-committee members, and by the expertise which they willingly shared with colleagues. I have absolutely no doubt that, whilst selflessly offered, many received a greater return than they invested by having the opportunity to explore developing legal issues with fellow experts on a non-competitive basis; and in addition to share the social life of our own Society.

It seems strange even for a lawyer to choose to associate with other lawyers socially, but I know that many members will agree that our annual dinner, committee dinners, receptions and other events are hugely enjoyable. There is a great feeling of goodwill, high spirits and shared humour.

If I have any regrets about the year, apart from the fact that it did not last longer, they are that I did not manage to involve sufficient new people in the running of our committee. I know this is a problem shared by other local law societies, and that the demands of practice for those newly qualified, and indeed in training, leave little time for

social events. But I do urge those of you in a position to do so to help to build our profession for the future by persuading more junior members of your staff that it is in their interests, as well as being in the interests of your own firms, that we remember that we are a profession and not a trade, and work together in local law societies as fellow professionals.

I am very grateful to you, the members, for allowing me to be President of this great Society for 2003/4 and know that I leave it in the best of hands, those of my successor, Jeffrey Forrest.

DIARY 2004

SEPTEMBER

- 23 Lecture: Avoiding and Handling Service Complaints
- 29 Committee meeting followed by dinner

OCTOBER

- 14 Lecture: European Law
- 20 Society's A G M followed by a reception and dinner
- 27 Committee meeting

NOVEMBER

- 11 Lecture: Employment Tribunals
- 17 Mary Ward Lecture
- 24 Committee meeting followed by dinner

DECEMBER

- 9 Lecture: Planning Law Update

Any member who would like to attend the dinners after Committee meetings would be very welcome. Please contact the Administrator not later than the Friday beforehand.

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CHILDREN'S RIGHTS IN UGANDA

SARA CHANDLER, LEGAL ADVICE CENTRE, COLLEGE OF
LAW, MEMBER OF CWHLS INTERNATIONAL COMMITTEE

SARA CHANDLER



Sitting on the banks of the Nile in equatorial sunshine watching birds flitting across the water I reflected on the contribution made to the development of human rights by young people still undergoing their training to become lawyers in Uganda.

I work in the Legal Advice Centre at the College of Law in Store Street with approximately 600 students who volunteer to work pro bono giving free legal advice or representation to members of the public who would not otherwise get access. In the equivalent centre in Kampala, the Legal Aid Clinic of the Law Development Centre, just over 400 students participated this year. Their programme of vocational training lasts for four terms with one term of three months engaged in clerking in firms, Courts or Government Departments. At the beginning of the first term the students spend a week in intensive activities in preparation for work in the Legal Aid Clinic including skills training, and visits to police stations, prisons, remand homes and rehabilitation centres. Students participate in the work of the Legal Aid Clinic at the end of the afternoon and in the evening after classes. Through the work of the Law Society's International Department I have become involved in a training programme for Ugandan legal aid lawyers. Financial support from the European Commission and the Austrian government has enabled me to travel to meet and work with Ugandan lawyers building the legal aid system.

The type of cases the Legal Aid Clinic take on are mostly criminal cases as the only free representation that exists by statute in Uganda is for serious cases where the sentence will be a life sentence or the death penalty. Voluntary sector projects, or non governmental organisations funded with overseas donor funds, provide advice and representation to target

groups such as women and children or undertake legal literacy campaigns on human rights. Private practice lawyers rarely take on criminal cases unless they are directed to take on a state brief by the court. State briefs are poorly paid and there is insufficient funding to carry right through to the end of a case. The Public Defender Association of Uganda, a non governmental organisation, takes on the defence of needy persons with funding from the Government of Denmark, and state briefs. The Advocates Amendment Act 2002 came into force last year with a requirement that all practising lawyers registered with the Uganda Law Society undertake pro bono work or contribute financially to the developing legal aid system.

Law students then participate in the provision of free criminal defence through the Legal Aid Clinic and under the strict supervision of senior practitioners in the Clinic. Recent changes to regulations now allow for students not only to advise but also to represent in court under the supervision of the Legal Aid Clinic's senior practitioners.

However, part of the programme undertaken by the students has developed out of the police station and prison visits. Students were shocked to discover the large number of children some as young as eight years old, imprisoned alongside adults. Delays in the criminal justice system meant that children would spend months in prison not even knowing why they were there. Research by the Legal Aid Clinic has revealed stories of children being told that they were being taken to school but found that they had been taken to the police station and then prison by their own parents without seeing anyone for legal advice.

Abuse of the human rights of children at the hands of the police and prison staff led to the Legal Aid Clinic

campaigning on law reform issues, particularly the Childrens Statute of 1996 which research revealed was not being implemented and was not even understood by officials in the statutory sector who were supposed to implement it. The Legal Aid Clinic developed a series of training programmes for people working with children in custody and a diversion programme designed to transfer children from the Magistrates' Courts jurisdiction to the Local Council Committees. Removing children from the magistrate's jurisdiction meant that they would not receive custodial sentences and instead enter a community based programme. Legal Aid Clinic students participate as facilitators in these alternative programmes.

I visited Wandegeya Police Station, one of the police stations in Kampala where the Legal Aid Clinic programme is carried out. It was very run down, with no private space in the waiting area. We were taken to see the cells: one for men and a new addition, a circular metal hut with conical metal roof in the yard that was the prison cell for women. Lack of resources for the police and prison system means that conditions are very bleak for people arrested and on remand. Previously one cell would have to be used for all detainees. Such was the situation for children detained in custody until the Legal Aid Clinic started the programme about two years ago.

Because of the acute need for advice and representation for people detained in custody the training for students at the Legal Aid Clinic in Kampala is largely in criminal law. This contrasts greatly with the work of the Legal Advice Centre at the College of Law, Store Street where the cases the students work on are landlord and tenant, employment, asylum and immigration and other areas of social welfare law. Working with Ugandan lawyers has inspired me to examine our work and look for new avenues.

HOLIDAYS ARE HERE AGAIN

THIS COLUMN WAS PREPARED BY **AFP CONSULTING**, A DIVISION OF **ALEXANDER FORBES RISK SERVICES UK LTD.** A MEMBER OF THE GENERAL INSURANCE STANDARDS COUNCIL.



Risk management is far from your thoughts in the holiday season. The week before the break can be the most stressful but most productive period in the office year as you sort the detritus on the desk between the “Must do before I leave” pile; the “Will never get round to, so might as well ditch” mountain and the “Better hand over to another pair of hands” files.

Holidays have a crucial role in the tempo of our lives in the office and out. Holidays are times when we get things in proportion, and have the opportunity to think reflectively, refreshing ourselves for the coming months. They are also times when we see our work from the perspective of others, as we have to hand over our files and articulate the plans that we have for progress. How will others judge your work? How clear is it from the file what has been done and what needs to be done?

Beware the colleague who cannot go away on holiday or gives strict instructions for files to be left until his or her return, or worse still says, “You can get in touch with me on my mobile or e-mail at any time”, still managing the file from afar. These are

colleagues with a guilty conscience, who cannot leave their work because they are not confident that they have files which are transparent and a holiday work scheme which sets out clear guidance for the team left behind: they have not planned ahead and are not able to take a break because they are anxious about what others will find on their files, or the absence of things which should be there.

The holiday period brings out the best and the worst in us. There are those who will take no responsibility for the progress of a holidaymaker’s file unless there is an emergency, so the return from rest is blighted by a massive heap of paper urgently waiting to be dealt with and more e-mails than can be processed in a day. Then there are those trusty colleagues who come into their own and manage to solve a problem on a file that has been causing headaches for months.

Holidays are essential to risk management as an integral part of managing people and reducing levels of stress, but this will only result from a well thought out holiday policy, so that the pre-holiday preparation

is thorough and supportive cover is given by colleagues during the break. Failure to do this can result in some very disgruntled clients and the risk of claims as the returner struggles to catch up.

The key to a successful policy lies in the quality of team leadership, with systems for allocating holiday time in a fair way which means no one is excessively burdened by others’ absences. It means ensuring that there is always support and supervisory cover during absences. If the system is seen to be fair and staff are given credit for their extra efforts then they will respond co-operatively and try to ease the return for the holidaymaker.

Regular file reviews and updates with teams will reduce the amount of time spent before the break on bringing everyone up to date prior to leave. Case plans and checklists which are regularly maintained mean that holiday-makers can leave without a care, knowing that instead of cursing them in their absence, their colleagues will be enviously admiring their professionalism.

PARTNERSHIP LAW AGAIN

ARTHUR WEIR

Three and a half years have gone by since we last looked at partnership law. We were then the Joint Law Reform Committee of the Holborn Law Society and the City of Westminster Law Society, and what we were looking at was the Law Commission’s Consultation Paper. Since then the Commission, with the Scottish Law Commission, has produced its final Report complete with a Draft Partnership Bill. It was published at the end of last year as Law Com No 283. It is five hundred pages long, or about fifteen hundred kilobytes if you look under www.lawcom.gov.uk/files/lc283-3.pdf. As part of normal legislative procedure the government is preparing a report on the economic impact of the proposals, and our committee has been looking at the subject again in order to respond to a short consultation on those issues. We took the opportunity to look back at a few of the results of our work.

A NEW ANIMAL

The Commission recommended that a partnership should, as now in Scotland, have a separate legal personality. Back in 1890 when the law was last reformed firms were usually tiny. Now they run to dozens or hundreds of members. Changes happen annually or more often. Current law was not designed for big firms. In practice of course firms act as if they were separate continuing entities, and, said the Commission, it is time to end the historical anomaly. We supported this proposal at the consultation stage. One consequence is that a firm will in future be able to own property. That alone will, we believe, produce a modest economic benefit. It will avoid the need to transfer property from the old to the new partners, or to resort to devices like trust deeds. There will be less scope for disputes on whether an asset was or was not partnership property, because, at least for property acquired after the

commencement of the Act, one can in the first instance look to see whether the firm was registered as proprietor, or the partners in their own names. In many cases this will indicate the answer to the problem. The new species of person should be welcomed.

ONLY A LITTLE ILLEGAL

We raised a point not mentioned in the consultation paper. Illegality, we argued, should no longer result in immediate automatic dissolution. Section 34 of the 1890 Act should go. Illegality, we said, can be of many kinds. At one end of the scale there is the partnership formed to pursue a particular activity, and the activity is then made criminal by statute. Other cases are less clear such as where one only of several professional partners loses his licence to practice. But what if one of those partners was merely suspended from practice for six months? Yet again, what of a partnership formed

to import beef from a single foreign country, when regulations are passed prohibiting the import? In practice, the firm would doubtless suspend operations until the regulations were lifted, or until trading links could be established with a different country, but seemingly the consequence of the regulations, read with section 34 of the 1890 Act, is that the partnership itself is automatically dissolved. Nor could any agreement to the contrary in the partnership deed prevent this result. In the final Report the Commission has agreed. Section 34 will go.

NO DUTY OF CARE, WE'RE PARTNERS

We agreed with the proposal that there should continue to be a duty between partners of good faith, and we had no

objection to that principle being enshrined in the new statute. But the Commission had further proposed that, in the absence of agreement to the contrary, partners should act with such care and skill as can reasonably be expected of those with the general knowledge, skill and experience that the partners have or purport to have. Not sensible, we said. It is in the nature of things that in the course of carrying on a business mistakes will be made from time to time. The risk is always there, whether it is a risk that the workmanship will prove to have been faulty, or that the advice will have been negligent. As most people would see it, one of the purposes of trading or practising in partnership is that the partners should help each other to avoid making mistakes, and to put right those that have been made.

However, if it should be enacted that partners owed each other a duty of care, each partner would normally have a claim against another partner who had made a mistake causing loss to the partnership. The consequence would be that instead of being partners in the sense understood in the past they would become more like individual traders with conflicting interests in relation to certain partnership matters. This would be contrary to the interests of the partnership as a whole, and would inevitably lead to increased disputes and litigation between partners. Partners should either work together or dissolve the partnership. We say that there is no place in partnership law for a duty of care. And the Commission has now agreed.

FREE TO CHOOSE?

Top tier lawyers working on top tier assignments on a temporary basis. The use of temporary lawyers by law firms and companies in London has been maturing over the last few years.

A significant number of professionals are continuing to move away from traditional, linearly progressive career paths and towards freelancing. The result is that temporary employment, traditionally the domain of secretaries and support staff, is now attracting a wide range of professionals, including doctors, accountants and lawyers.

The painful and expensive experience of downsizing, often followed by panicked recruitment drives, has been a particularly difficult path for the legal profession. The difficulties inherent in planning and implementing efficient long-term recruitment strategies have become increasingly obvious. The vagaries of the economy mean that long-

term deal and case flow is very difficult to predict, and when things are less busy the natural progression is for there to be under-occupied lawyers, and, ultimately, redundancies.

The use of contract lawyers is increasingly seen as one solution to these problems. The benefits of being able to bring in highly-skilled lawyers on a fixed-term or project basis, without having to make a substantial investment in training them and then seeing them leave before there is an adequate return on that investment, are obvious.

An inevitable concern of those considering the use of temporary lawyers is that of quality control. Whilst quality is of paramount importance in any recruitment situation, it is particularly key when dealing with temporary positions. A candidate must be able to “hit the ground running”, often with little supervision and in an environment where

there isn't the lead-in time typically allowed in permanent positions. It is fortuitous, therefore, that the increasing willingness of City employers to use contract lawyers has been accompanied by an increasing number of talented lawyers who are attracted to the notion of becoming “free agents”.

Whilst many lawyers approach contract working as a way to retain control over their work-life balance, others are using it as a way to sample different environments before returning to the treadmill of a permanent job. Lawyers who are being made redundant or, perhaps, choosing to leave an unsuitable position, are starting to question the wisdom of jumping into the first permanent job they can find, and instead are preferring to undertake contract assignments, thus allowing themselves time to consider their options, as well as the opportunity to continue to use and develop their legal skills.



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LEGAL CHARITIES GARDEN PARTY

ANOTHER EXCELLENT RESULT

ARTHUR WEIR

Once again the Legal Charities Garden Party has raised well over £25,000 for the charities. Held on 16 June, and pictured in the last issue, the event produced financial results that closely challenged the splendid figures of the previous two years. Though ticket sales were down at £13,931 (£17,517 last year), wine sales were up at £23,957 (£23,772). Once again the Garden Party enjoyed

generous sponsorship. Led by St Paul International, and including donations from Guilbert UK, News International, the Golden Bottle Trust, National Westminster Bank, and ILEX Tutorial College, the donations from institutions totalled £9,650 compared with £7,650 in 2003.

The expected total distributions will be

£25,976 (£27,340 last year). As before, the recipients are the Solicitors' Benevolent Association (44%), the Barristers' Benevolent Association (22%), the Institute of Barristers' Clerks Benevolent Fund (10%), the United Law Clerks' Society (8%), the Institute of Legal Executives' Benevolent Fund (8%) and LawCare (8%).

THIS REPORT APPEARED IN THE AUGUST ISSUE OF THE LEGAL EXECUTIVE JOURNAL – AS ILEX'S SOCIAL CORRESPONDENT MIGHT HAVE WRITTEN

JOYCE ARRAM

Sartorial elegance (for the men!) was the name of the game at this year's Legal Charities Garden Party in Lincoln's Inn, North Lawns, as smart panama hats were in evidence. Morning dress for those who had come straight from the races at Ascot – and the ladies too who had been to Ascot were immediately identifiable as they were the ones with the hats!

The champagne flowed and kind people thoughtfully and constantly filled our glasses; strawberries in chocolate (now a regular Garden Party feature) were in abundance for those gluttons among us who could not resist them. The Garden Party favourites, Southern Rag-A-Jazz and Tony Charles Trinidad Steel band, entertained us (some daring souls even attempting to dance to their music).

And of course the main reason for attending was to see and be seen (and to support our legal charities). The Garden Party is hosted by CWHLs – the City of Westminster and Holborn Law Society – as

well as the Benchers of Lincoln's Inn. CWHLs President Edward Solomons, with Mrs Solomons, was there to greet guests on their arrival and also in evidence were CWHLs Senior Vice President Jeffrey Forrest and Mrs Forrest, he fresh from his well deserved award of the lifetime contribution award for Pro Bono work at last week's Solicitors Pro Bono Awards Dinner. It was nice to be able to congratulate him in person. Also seen was another CWHLs friend of ILEX, Timothy Drabble, their Treasurer. Peter Williamson, another CWHLs member and current Law Society President was also much in evidence (and modestly, your scribe is a member of that Society too).

Keeping up the practice of using the Garden Party to entertain guests were 11 Stone Buildings Chambers, as well as firms such as Dawsons, Hunters and Edward Coe: and of course ILEX was there to greet its friends and members. Kempston was led by Diane Burleigh and Teresa Miller while the council was represented by Paul Reed,

Larry Shaw, David Hogg, Mark Bishop and your scribe, and past President David Pipkin. It was also good to see the Chairmen of London Central Branch, Michelle Lewitson, and Bristol, Judith Gordon Nicholas; and my apologies to any other Branch officer I have omitted. Another old ILEX friend, Denzil Lush, Master of the Court of Protection, was there with colleagues from the Public Guardianship Office. And last but not least the bevy of beauties dressed in chiffon and floating summer dresses in true garden party fashion – the staff of our firm Alexander JLO vied with the flowers to add enchantment to the scene.

If I wax lyrical about this year's Garden Party it is because of pleasure at the sight of so many people contributing to the charities which service the legal profession. But, as I say every year, we could do with more of you turning up and spending your money as the good causes to which it goes could one day help YOU!

WILLIAM OLIVER FARRER CVO

TIMOTHY DRABBLE

It is appropriate to record, in the same Report as that announcing the result of the 2004 Legal Charities Party, a few memories of Bill Farrer. Dennis Gordon had started the Garden Party in 1968 in Gray's Inn. Bill took over the event a few years later; by then it had moved to Lincoln's Inn. The writer first knew Bill when he became Secretary of the Garden Party Committee. The meetings, which Bill chaired with humour and a light touch, were always fun but at the same time businesslike.

Bill was Senior Partner of Farrer & Co for a number of years and during that time was Solicitor to the Duchy of Lancaster. For his services he was appointed CVO. He was on the Committee of Holborn Law Society and Chairman of its Nominations Committee,

which had the important duty, among others, of nominating candidates to represent Holborn on the Council of The Law Society. This he did with thoroughness and tact.

Bill retired from practice in 1991. At the same time he handed over to the writer the Chairmanship of the Garden Party. His great achievement was to ensure good weather for the event, except in 1979. It poured with rain early in the week; it was an easy decision to move indoors to save the lawns of Lincoln's Inn from becoming a quagmire.

Bill died in February aged 78. On 20 May, Ascension Day, a Memorial Service was held in St Bartholomew's, Haslemere. Seats were hard to find half an hour before the service

began. Representatives from our Society included John and Peggy Wynter Bee, Chris Heaps and Timothy Drabble. It took so long for many to get out of the Church that they did not reach the Reception a few miles away to enjoy the excellent hospitality offered by Hazel, Bill's widow, and his family. At the Service Sir Matthew Farrer, Bill's cousin, gave a Tribute. He pointed out that his task was very difficult as Bill was a very private person who gave little away. Bill was a member of the Choir at St Bartholomew's and sang there every Sunday. His family was his main love. Golf he enjoyed until his death. Bill was, despite this reticence, probably because of it, a very special person to those who knew and trusted and respected him.

SUB COMMITTEE ANNUAL REPORTS

EDUCATION AND TRAINING

NIGEL MAYHEW

In November 2003 the Committee submitted a written response on behalf of the Society to the Law Society about the Consultation on a new training framework for solicitors. The Committee continued to help to organise the Society's monthly evening lecture programme at Lawrence

Graham. During the year the Committee provided a judge and took part in the administration of the Wig and Pen prize awarded jointly with the City of London Law Society to a recently qualified solicitor for pro bono legal work. The Committee made suggestions for revision of the Wig and

Pen prize rules but negotiations with the City of London Law Society have not yet resolved the points made by our Society. The Committee was also involved in the interviewing for the Gamlen law prizes awarded to trainee solicitors undertaking training contracts in the area of our Society.

INTERNATIONAL COMMITTEE

STEPHEN RAYNER

The year has been business as usual.

We cemented our relationship with our twin, the Berlin Bar, with a visit by our President and Vice President and other members to Berlin for the installation of the new Berlin Bar President, and the visit of Jan Fiedler, Berlin Bar Vice President, to our International Reception. We expect a further visit to Berlin in the autumn for a seminar on money laundering regulations - how

each of us is dealing with this iniquitous imposition.

My special thanks to this Committee's Secretary, the bi-lingual Gordon Adam, for organising the International Reception, jointly with The Law Society. For a full report, see the previous edition of The Report. The Guest Speaker was Frank Marrocco of the Bar of Upper Canada, and the other speakers were our President, Edward Solomons, and

the Vice President (now President) of the Law Society, Edward Nally.

We have seen the Society's web site come to fruition - an initiative of the Committee with the invaluable help of one of our members, Peter Burbidge. I have continued to represent our Society's interests on the Law Society's International Issues Committee, and we continue to advise our Society on international matters.

LAND LAW AND CONVEYANCING COMMITTEE

ADAM MABERLY

We have been involved in some initiatives during the year and have also monitored some changes in practice and procedure actual and anticipated.

As mentioned elsewhere by Jeremy de Souza, Gerald Moran was pro-active in submitting constructive criticism of the proposed SDLT forms, the bane of practitioners, but with minimal success, but at least he should be able to obtain some satisfaction from the proposed changes, in particular to SDLT1, which may reflect some of the original comments (it is typical that the Practitioners Newsletter No 2 issued in July indicates that question 2 of SDLT1 should be completed with Code A if the

transaction involves the assignment of an existing lease when the Guidance Notes still require reference to Code F).

Landlord and Tenant Act 1954: A note was prepared for The Report summarising the changes effective on 1 June - a genuine (if belated) attempt to correct some of the anomalies and to simplify the procedures for contracting out and sanctioning agreements to surrender.

Payment for referrals: we supported Michael Garson's submissions rejecting the proposals and the impending vote is awaited with interest.

Commonhold is a reality in practice as well as in theory and it will be interesting to see the extent to which it is utilised, the anticipation being that few existing buildings currently with leasehold tenure will convert to Commonhold - lenders still have reservations and the recovery of dues may be a problem when commonhold interests are sold.

Land Registry - e-conveyancing: we are liaising with the Land Registry to present to the members of the Society an electronic conveyancing demonstration and this will probably take place early in 2005 - an update will follow as soon as possible.

LAW REFORM COMMITTEE

ARTHUR WEIR

This report may be brief, as most of our work has been reported at length elsewhere. The two main submissions during the year were those on Termination of Tenancies for Tenant Default – that is, forfeiture of leases – and on the economic impact of the proposed partnership law reform.

Our discussions were by no means limited

to these topics. The committee acts as the ‘umbrella’ under which are the two other principal committees of the Society that are concerned with substantive law. Both the Revenue Committee and the Land Law and Conveyancing Committee report to Law Reform, and both had substantial subjects to deal with, as appears from their own reports. This year in particular it became an important part of our work to

offer contributions from non-specialists – or specialists in different fields – to the tax lawyers and the conveyancers.

As always we welcome prospective recruits to the committee. Specialist expertise is an advantage, but so also is the generalist’s common sense.

LITIGATION COMMITTEE

JOANNA KENNEDY

In the course of the last year we have:

1. Had further lengthy discussions on the future of mediation and other forms of ADR. We have considered:
 - (a) Whether the pressure put on parties to mediate can produce unjust results.
 - (b) Whether mediators should be regulated in order to ensure good quality.
 - (c) Whether in all circumstances parties should be penalised in costs if they fail to mediate.

In this connection we invited a representative of a mediation working party which had been set up by The Civil Justice Council to talk to us about these issues and about the various representations that were being made to the court by interested parties in connection with the Halsey case.

2. Had continuing discussions with the

LSLA and Tony Guise about the proposed new Commercial Litigators Group.

3. Arranged that as part of the Society's series of lectures a couple of lawyers from Continental European Jurisdictions might talk to us about process in their jurisdictions including in particular about enforcement. A lecture on this subject will take place on 14 October.
4. Discussed on various occasions the difficulties of obtaining an efficient service from the London County Courts (with the honourable exception of the Chancery List at Central London). The Chair has been invited to join a committee to be involved in discussing with the Judges and Managers how matters might be improved in the Central London County Court. However it appears that Committee has never yet

managed to meet, which is of course somewhat indicative of the problems.

5. We responded to a consultation paper on County Court Judgments.
6. We had some further discussions which fed into the consultation process on the future of Queen's Counsel.
7. Arrangements are being made with Central London County Court to offer them some space on the Society's website as it does not have one of its own.

We sometimes feel we are operating in a bit of a vacuum because we very rarely receive any comments or input from members of the Society who are not on our Committee. We would very much welcome any comments, suggestions of matters that we might discuss or take up or other input which might inform us.

PROFESSIONAL MATTERS COMMITTEE

JULIAN AYLMEYER

Is it possible for solicitors (or any other branch of the legal profession) to maintain the best features of an independent profession; or is it the main function of its representatives to manage the retreat from that proud position as best they can? What are the core ingredients of a profession such as ours which we should seek to maintain; and can we maintain them? This year we considered such questions against the background of the Government’s widespread agenda for reform, the most important of which from our point of view has been Sir David Clementi’s Review of the Framework for Regulation of Legal Services.

Last year I began my Report by saying that our dominant concern had been client confidentiality and legal professional privilege. This on any view must remain a key

concern for our profession. If clients cannot consult us in the knowledge that their confidences will be maintained then an essential element of our independence and ability to serve our clients must disappear. The anti-money laundering rules (which are a permanent item on our agenda) have eaten into legal professional privilege. This is a matter that we must constantly watch. If members come across particular problems we should be most grateful if they would share them with us.

It was gratifying that the Law Society took seriously our representations that Principle 16.02 of the Guide to the Professional Conduct of Solicitors was unlawful. They kindly consulted us on the attempt to revise that rule in a way that will avoid - or at least reduce - any erosion of clients’ confidences in circumstances where third parties are making

complaints against solicitors.

As I write this report I hear that the House of Lords (apparently itself soon to be reformed) has just reversed the Court of Appeal’s decision in the “Three Rivers” case. Although the reasons have not been given, it is reassuring that the highest Court in the land has upheld legal professional privilege when it seemed to be seriously under threat.

Another topic we have looked at is the system for appointing Judges. We set up a sub-committee which also included Arthur Weir, the Chairman of the Law Reform Committee. A very good paper was produced. One of the great difficulties is to try to reconcile the need for an appointment system that is independent of government but is at the same time not an unaccountable self-selecting quango. There is no perfect

answer to this. The traditional position of Lord Chancellor had many critics and arguably breached Human Rights legislation. However, one of the advantages was that you had a senior member of the Government who had no (or no further) political ambition; and who had a proper understanding of the legal profession, with a specific duty to maintain the independence of the judiciary. If however the Secretary of State for Constitutional Affairs may be a non-lawyer, then the abolition of the post of Lord Chancellor may turn out to be a retrograde step. It then becomes all the more important that the independence of the judiciary (and of its appointment system) is maintained. Similar points can be made in reply to suggestions that Government Ministers should have some control over the legal profession as a whole, including the solicitors' branch.

Various topics that we have considered in previous years keep reappearing. The vexed question of Introduction and Referral fees has not gone away. I understand that it will be the subject of a ballot within our profession, notwithstanding that the Law Society Council has already relaxed the rule. This is the sort of topic that arouses powerful emotions within our profession as a whole and within our Society. Many take what could be described as the pragmatic view that it is best to accept that we cannot properly enforce the previous rule; and that we have to accept reform because the previous rule was regarded as being uncompetitive. As against that there are those who say that an important principle is at stake here on which we should not as a profession be seen to be compromising.

However the Clementi Review was undoubtedly the biggest topic handled

during this year. Although we set up a sub-committee to consider it in detail, all members of our committee took a close interest and contributed to our response. Looking back over the minutes of our Committee meetings, it is striking that the minutes in respect of this are often the shortest of all. This was in inverse proportion to the amount of effort put in. It is a vast topic; and the time available to consider it in proper detail was insufficient. I will not attempt to summarise our response. Ursula Taylor (who sat on the sub-committee) has most ably summed it up elsewhere. The one point I would mention is that our response made it quite clear that it was important that consultation did not cease at the point of discussing principles. Clichés such as “the devil is in the detail” and “the law of unintended consequences” readily come to mind. They are highly pertinent when discussing a topic such as this. The initial consultation dealt with broad principles. When it comes to dealing with the finer detail it is important that those who will be directly affected and who have valuable and wide-ranging experience should be consulted. Otherwise it is inevitable that misunderstandings will occur; and mistakes will be made.

Just as we were in the middle of our discussions on Clementi, the Law Society sent us their Final Consultation paper on the revision of the Professional Conduct Rules. Regrettably this was the worst possible time for us to receive such a paper. We had been consulted on many of these in the past. Whilst our representations have had some effect, it cannot be said that everything we had proposed has been adopted. However in the circumstances we simply were not able to deal with the paper sent out in May 2004 which required the response by 12 July. The

problem with such a mammoth revision (as it was with the attempt to revise the Rules of the Supreme Court) is that the more ambitious the undertaking the more likely it is that unforeseen problems will arise. Even on our cursory look at this paper we can confidently predict that this will be the case here.

Should we be gloomy about the future of our profession? Not necessarily; but there is cause for concern. I was this year asked to join the Ethics Education Forum of the Law Society. The aim of this was to see how best proper ethical standards can be inculcated into members of our profession. One distinguished former President of the Law Society said that much as he supported our aims he had sadly come to the conclusion that we were on to a “loser” in view of the many outside pressures (not all of which were based on proper understanding of the issues).

For all our concerns and hard work, this has been a most interesting (and in many ways enjoyable) year. The greatest sadness has been the loss of Colin Prestige, our most experienced member. If ever there was a solicitor who upheld the finest traditions of our profession it was Colin. For all its sadness, his memorial service at St. Clement Danes was inspiring. The service and the music (including an extract from “HMS Pinafore”) were magnificent. However I also remember the hospitality of Colin's former partners at Lawrence Graham, and the friendliness of so many members of our Society, and of the legal profession as a whole, who attended the reception afterwards. In a way that also upheld one of the finest traditions of our profession (and one that Colin for one certainly did not undervalue).

REVENUE COMMITTEE

JEREMY DE SOUZA

Next year will see the 20th anniversary of my and Paul Eaton's joining the Committee's Holborn predecessor. This year saw the retirement from practice of its (and our) first Chairman, Arthur Alexander. Fortunately, his wise counsel will still be available to us.

During the past year, we have been faced with a number of major tax issues which are very close to home. In conjunction with Gerald Moran of the Conveyancing and Land Law Committee, we monitored the start of SDLT on 1 December. This tax was introduced far too early with far too small a team appointed a matter of weeks before the preordained kick-off date to deal with the technical aspects. While the paperwork side can now be regarded as working satisfactorily, the same cannot yet be said for the rulings end.

From 23 July, SDLT was extended to

partnership transactions by Schedule 41 of the Finance Act 2004. This is likely to be the cause of considerable difficulty, not least because the definition of partnership share cannot be related to the “sliced” annual allocation formulae which are currently the norm for professional firms.

Sections 306 to 311 of the Finance Act 2004 have put in place a scheme disclosure obligation structure which could, ultimately, be extended to any type of tax. Even those firms whose specialities do not include the two topics selected for immediate implementation (employee benefits involving shares or loans, and quasi-loan financial products other than finance leasing) will therefore need to consider the long-term compliance consequences for their practices.

The Pre-Owned Assets code was a novelty, in the sense of “dealing with” an inheritance tax

problem by an income tax charge and claiming that retrospection is not involved. Although the point was accepted with regard to pre-1986 gifts, decisions of the Courts relating to events subsequent to that are, in effect, being set aside except for those whose life expectancy and/or means enable them to fund an annual tax charge from next April. There are also a number of lacunae which will need to be dealt with in next year's Finance Bill or through regulations, e.g. a sale of part of one's home at full value.

Finally, the Inland Revenue's review of trust taxation is still ongoing. Jonathan Godwin-Austen, James McNeile and I attended the first of the consultation meetings at Somerset House in January. The final outcome will no doubt be revealed in the Pre-Budget Report.

TRAINEE AND YOUNG SOLICITORS GROUP

LUCY STRAHAN

I continued as Chair this year and we have continued to hold several successful events throughout the year.

I am now stepping down and would like to take this opportunity to thank the committee and everybody who has helped me out over the past two years. I am passing the Chair to Roisin Upcraft (immediate past Treasurer) who has helped me out immensely during this time and I know that she will take the group forward.

There will be introductory drinks held some time in October to welcome new members. At this event, members will have the opportunity to meet with current committee members. Should any one be interested in being on the committee, there are places available and they will have the opportunity to sign up at this event.

We have made some significant headway in setting up avenues to enable our members to carry out pro bono work if this is something they are interested in. If this is something you

would like to get involved in, please contact Roisin on the e-mail address below.

The committee would welcome any thoughts or comments about ideas for events, things they would like the group to do, as our main aim is to bring everyone together so that we can talk to people who are going through similar experiences.

If anyone is interested in joining the Committee, please contact Roisin at r.upcraft@dawsons-legal.com.

FEDERATION OF EUROPEAN BARS (FBE)

DAVID MORGAN

Although I am no longer a member of the Presidency of the FBE, I still find myself involved in several European activities on its behalf partly as its representative at the International Criminal Court and with the International Criminal Bar and partly as co-Chairman of its Eastern European Committee which seeks to assist bars and

law societies in countries belonging to the former Warsaw Pact.

The erosion of legal rights continues to cause concern amongst members and this is discussed at most of the FBE meetings and in particular, the position of bars and law societies and the general attack on

the professions, it being the subject of the last general assembly and the next conference, which takes place in Foggia near Bari in Italy on 13/15 October. The conference is prefaced by a day devoted to training issues which this year concentrate on the need for continuing education (CPD).

SOLICITORS PRO BONO GROUP

REBECCA BARNES

“I was being bullied at work. I didn’t know what to do. In the end it got so bad I couldn’t go to work. Then my troubles really began. With no money I couldn’t afford to live; I thought I would lose my home. I became clinically depressed.”

Fortunately, this woman attended one of the LawWorks Pro Bono Clinics established by The Solicitors Pro Bono Group. There she was advised by a young trainee solicitor being supervised in the Clinic. He was able to negotiate a settlement of 50% of her salary plus a reference.

She – as a client - was extremely grateful. The trainee was delighted – he had been able to give real help to a real person. The firm and the trainee were pleased as the skills of the trainee had been developed and all of the volunteers felt proud to be part of the pro bono team.

This example is just one of thousands which our volunteers deal with each year; every one makes a difference.

Unsurprisingly many members of the public are still unable to access legal advice. Unless people are eligible for public funding or have sufficient funds for legal fees, they are excluded from obtaining legal assistance.

Social exclusion is still rife and the justice system is still unavailable to large swathes of the public.

If you want to help to attempt to redress this balance and promote equal justice for all, look no further.

Perhaps you are concerned that you do not have the requisite experience to assist such individuals? Worry not. Free training on social welfare law is regularly provided in Central London, led by specialists – and they are CPD accredited. Alternatively, we have many clients who seek advice on business issues and your daily skills can therefore be put into practice.

Whatever your level of qualification, whatever your expertise, you can empower individuals in your local community and nationwide through pro bono. You have the legal skills. You have the confidence to reason through your problems – help other people who are not so fortunate.

“I just don’t have the time” is a common reason for not doing pro bono. This has become increasingly unconvincing. Hundreds of lawyers participate in legal pro bono nationwide, from sole practitioners to City lawyers, from paralegals to partners. If

they are able to make the time, so can you. Everyone can find the time if they really want to make a difference.

Whether you are able to spare a couple of hours a month in a concentrated effort, or a few minutes each day, whether you work 9 till 5 or 8 till midnight, we have something for you.

No matter whether you have 3, 30 or 300 fee earners, please try to encourage firm wide participation. Not only does this increase the projects available to you, but it is an impressive addition when it comes to recruiting new staff and clients and can boost firm morale.

Our projects offer assistance to both individuals and community groups either face to face or from your desk. Opportunities available include advising at evening advice sessions, assisting mediations, answering simple legal questions, assisting not-for-profit organisations or accepting in-depth cases.

If you are interested in getting involved, please contact The Solicitors Pro Bono Group on 020 7929 5601 or solicitors@probonogroup.org.uk and we would be happy to discuss the options further.

AGM MINUTES 2003

MINUTES OF THE 2nd ANNUAL GENERAL MEETING OF THE CITY OF WESTMINSTER AND HOLBORN LAW SOCIETY

held on Wednesday 8th October 2003 at the Law Society's Hall

1. MINUTES OF FIRST ANNUAL GENERAL MEETING

The minutes of the First Annual General Meeting of the Society were approved.

2. PRESIDENT'S REPORT

The President presented his report. He reported on a successful year. The President thanked those who had supported and assisted him during his Presidency, including the Chairmen of all the sub-committees, the officers and Mrs Elizabeth Beesley, the Administrator, for her work supporting the Society during the year. The President thanked Mark Spash for his work as Treasurer and for his service to the Society on the occasion of his retiring as Treasurer and from the committee. The President thanked Andrew Hill, the Dinner Secretary, who was retiring from this post and from the committee, for his professionalism and work in connection with the Annual Dinners. The President thanked Chris Heaps, the Society's Remembrancer, on the occasion of his retirement, for his long service to the Society. The President was delighted to note that one of the Society's Council Members, Peter Williamson, was the current President of the Law Society, and wished him well.

3. APPROVAL OF ACCOUNTS

The Treasurer presented the Accounts for the period to 31 May 2003. He

commented that it was important to maintain and improve membership levels. The Accounts showed a net operating surplus. The Treasurer proposed and it was agreed that thanks be recorded to Lawrence Graham for hosting the lectures during the year. On the proposal of the Treasurer the Accounts were approved.

4. INSTALLATION OF OFFICERS

President

Edward Solomons

Senior Vice President

Jeffrey Forrest

Junior Vice President

Charles Fraser

Honorary Treasurer

Timothy Drabble

Honorary Secretary

Ursula Taylor

Deputy Honorary Secretary

Jonathan Cornthwaite

Editor

Rosemary Lester

5. ELECTION OF THE COMMITTEE

There being 17 nominations for election to the committee, the following were elected:

Arthur Alexander

Julian Aylmer

Ashley Badcock

Richard Brown

Bruce Coles

Sue Elson

Michael Franks

Tim Lawson-Cruttenden

Joanna Kennedy

Nigel Mayhew

Lisa McMillan

David Morgan

Stephen Rayner

Elizabeth Stokes

Lucy Strahan

Roger Woolfe

Arthur Weir

6. APPOINTMENT OF AUDITORS

On the proposal of the President, Robert Smith and Philip Langford were appointed Honorary Auditors for the Society.

7. ELECTION OF HONORARY MEMBERS

On the proposal of the President, the President of the Law Society, Peter Williamson, was elected an Honorary Member of the Society.

8. ANY OTHER BUSINESS

There being none, the meeting concluded.

youngsolicitorsgroup

INTERNATIONAL WEEKEND

LONDON: 1-3 OCTOBER 2004

Join lawyers in London for the annual International Weekend, supported by the YSG and others. Meet young lawyers from the USA, Canada, Western and Eastern Europe. The Weekend includes a reception at Mansion House, professional development events, a tour of the Houses of Parliament, and a Gala Dinner at the celebrated Chancery Court Hotel.

An excellent opportunity for business development and catching up with friends in town.

CPD: 2 Hours

Cost: £20 (Friday night - The Glam Bar, Onanon, Piccadilly Circus),

£70 (Ball - Saturday night),

£90 (Friday/Saturday night),

£200 (Full Weekend)

To register your attendance, please contact Linda Warminger on 01727 896081, Email: Londonysg@kingstonsmith.co.uk

ANNUAL GENERAL MEETING

Please note that the third Annual General Meeting of the City of Westminster and Holborn Law Society will be held at The Law Society's Hall, 113 Chancery Lane, London WC2

at 6.15 pm on Wednesday, 20 October 2004

The formal notice of this meeting with the agenda will be circulated on about 20 September. The agenda will include a rule change to enable Incorporation of the Society.

After the AGM there will be a reception at 115 @ Hodgsons, Chancery Lane, which all members are invited to attend. This will be followed by a dinner that will cost £35 per head: please let us know by 13 October if you would like to attend this dinner.

DINNER FOLLOWING THE AGM

TO: The Administrator, 25 Rotherwick Road, London NW11 7DG Reply by 13 October 2004 DX 33801 Golders Green

Please send me tickets for the dinner @ £35 per head

I enclose a cheque for £ payable to the City of Westminster and Holborn Law Society

Name(s)

Address

..... DX

Dietary requests

Signature Date

AUTUMN LECTURES

AVOIDING AND HANDLING SERVICE COMPLAINTS: MICHAEL FRITH - 23 SEPTEMBER

Are you happy to pay £840 costs for every complaint that gets to the OSS? Are you aware of the common factors that give rise to complaints? Are you aware of all the things you must avoid if you are to have a chance of dealing with a complaint in a way the client will find acceptable? Unless your answer to all those questions is "YES", then this lecture is a "must" for you.

EUROPEAN LAW: EVA STORMANN AND CHRISTIANE GURSCH - 14 OCTOBER

EMPLOYMENT TRIBUNALS: JOHN WARREN - 11 NOVEMBER

PLANNING LAW UPDATE: MARTIN EDWARDS - 9 DECEMBER

These lectures will be held at the offices of Lawrence Graham, 190 Strand, WC2. They begin at 6.15 pm with a drink available from 6.00 pm. One hour of CPD is available (ref: JC/CWHLs) – please give your roll number when attending.

TO: Mrs E J Beesley, CWHLs, 25 Rotherwick Road, London NW11 7DG DX 33801 Golders Green

Please send tickets for the following lectures: £20 per ticket for members and £30 per ticket for non members

	Member	Non member
AVOIDING AND HANDLING SERVICE COMPLAINTS
EUROPEAN LITIGATION
EMPLOYMENT TRIBUNALS
PLANNING LAW UPDATE

I enclose a cheque for £ payable to the City of Westminster and Holborn Law Society

Name

Name of Firm

Address

..... DX

Signature Date