

The 1998 BIALL Conference was to be held in Portsmouth and coincided with my year as Chair of the Association. In those days the Conference was entirely run by BIALL members and, when I knew that it was to be held on the south coast, I immediately thought of approaching Janet to be on the committee. When I asked her, she said that from the minute that she heard my name in connection with Portsmouth she was just waiting for my call!

Luckily for me she agreed to be the Local Conference Organiser and we worked together very closely over a two year period. Janet was thorough, practical and always reliable. We put many hours of work into the planning and organisation of what turned out to be a very successful conference. We had the odd potential disaster, but also had

lots of fun and laughs along the way – she was great. Latterly, our paths crossed less frequently, but every time they did it was lovely to see her and we always caught up exactly where we had left off. I will miss her professionalism and friendship but will always remember her with a smile.”

For everyone who met Janet at conferences over the years, who worked with her on committees, as part of the Law South library network and within Thomas Eggar, I am sure you will all join with me in giving thanks for having known Janet and pass on our deepest sympathies to her husband Mike, her family and friends.

**Ann Hemming**

*Legal Information Management*, 11 (2011), pp. 81–82  
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doi:10.1017/S1472669611000260

## ***The Legal Profession in a Changing World***

# **Guest Editorial**

The aim of this theme, entitled, *The Legal Profession in a Changing World* is to examine the sweeping changes being brought about by the Legal Services Act (LSA) 2007. Much of this change centres on alterations to the regulatory landscape for legal practitioners in England and Wales, including the introduction of Alternative Business Structures (ABSs). Other factors, including the new Bribery Act, extensive changes to legal aid, a new complaints against solicitors handling regime and the process of outsourcing legal services, will also have a significant impact on the legal profession over the next few years.

The intention of the Legal Services Act 2007 was to ensure that consumers received a professional service from those providing legal services, and to allow law firms to do new and better things for clients, by providing more flexibility and reducing bureaucracy. It is four years now since the publication of the Act and, by the time this issue is published, the new Solicitors Regulation Authority (SRA) Handbook will have been released and from the 6th of October 2011 the new regulatory regime will finally come into force.

What will this new “outcomes focused regulation” look like? Bronwen Still explains this in much more detail in her article (see p 85) but essentially the idea is to provide a framework within which firms of all shapes and sizes can determine the approach to the compliant conduct of business which best suits their own business model, within parameters defined by the regulator. Rather than prescriptive Rules, the new approach will be based on a targeted, risk-based approach concentrating on the standards of service to consumers. The SRA Handbook sets out the ethical standards expected of individual solicitors and law firms and the outcomes they will be expected to achieve for their clients. It will be

accessible free of charge on the SRA website and available in print from the Law Society.

The changes will affect barristers as well as solicitors and Baroness Deech, the Chair of the Bar Standards Board, considers the impact of the LSA 2007 on the regulation of the Bar (see p 89).

Complaints handling is another area of the regulatory regime that will change on the 6th of October. The Legal Ombudsman (LeO), set up last year, has taken over complaints handling from the Legal Complaints Service. Sara Meyer takes a look at the challenges in knowledge management that LeO faces (see p 108).

Another key change for the profession is the introduction of Alternative Business Structures (ABSs) which describes a new type of law firm which will be permitted from October 2011. The SRA will license ABSs. These will include firms with more than 25 per cent non-lawyer managers; companies taken over by non-lawyer enterprises; companies floated on the stock exchange, or firms which provide both solicitor services and non-legal services. Dubbed “Tesco Law”, the advent of ABSs is seen as “the legal profession’s equivalent of the City’s big bang” where, it is thought, new entrants to the legal profession will provide increased competition to established firms and therefore offer lower costs and greater efficiencies for the consumer. Clare Brown gives a good overview of the developments in the world of legal services operated via the internet on (p 101) and Nick Jarrett-Kerr elaborates on what ABSs might mean for law firms in his article (see p 82).

Further changes will come with the Bribery Act, which was published in April 2010 but implementation has been delayed due to the controversial nature of some of the requirements. In particular, the corporate offence

of making companies liable for anyone who pays a bribe to win or retain business on their behalf, even if senior management had no involvement or knowledge, has been very contentious. The only defence which protects firms is the ability to prove that “adequate procedures” are in place to prevent bribery. This was deemed too vague by many firms, so the implementation of the Act was delayed until recently when government guidance was published at the end of March 2011. Most firms are now busy drafting policies and procedures preparing to communicate the changes that will be ushered in by the Act, which will come into force from the 1st of July 2011. Amy Bell looks in more detail at how the new processes might work and brings us up to date on (see p 104).

Legal Process Outsourcing (LPO) is another emerging area that is changing methods of working in the legal community. The practice of outsourcing work has taken off and Mark Ross (p 95) gives us an overview of the ethical issues in relation to client obligations whilst Loyita Worley examines outsourcing as it affects legal information provision (97).

Legal aid is another area where significant change is likely this year as the government has announced extensive changes to the way public funding will be allocated. Cuts are expected to affect over 500,000 cases, effectively removing access for clients in housing, employment, family and other areas of civil legal aid. Vicky Ling looks at family cases and how the impact will be felt in terms of access to justice (on p 92).

Despite the long lead in time since the introduction of the LSA 2007, many law firms are only just beginning to consider what OFR and the introduction of ABSs will really mean for their daily practices. The time allocated to a consideration of regulatory issues by practitioners is, at best, limited. Hopefully, information providers and the Law Society will be able to assist the busy practitioner with all the changes in regulatory, financial and client expectations.

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*Legal Information Management*, 11 (2011), pp. 82–85  
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doi:10.1017/S1472669611000272

## Alternative Business Structures – the Long Pregnancy

**Abstract:** In this article, Nick Jarrett-Kerr examines the long delayed implementation of the ABS structure which is likely to be finally implemented in October 2011. He reviews the plans of some early movers towards ABS and considers the possible benefits to law firms, to external investors and to clients.

**Keywords:** law firms; alternative business structures

### Introduction

Some four years have passed since the Legal Services Act 2007 (LSA) was enacted and its potential impact has, through the passage of time, become somewhat discounted by many law firms and sector observers. The long period of gestation is set to end on 6th October 2011, barring last minute hitches in an ambitious implementation and regulatory programme which requires a score, or more, of statutory



Nick Jarrett-Kerr

instruments. It will then at last be possible for Alternative Business Structures (ABS) to come into being.

The reasoning behind the legislation includes a blatant attempt to apply a greater degree of market forces to a professional services sector which has been seen as traditionally monopolistic and restrictive. The rationale is that the changes will, amongst other things, empower or facilitate both greater efficiency and lower cost to the consumer. As a