



# KYSEN Legal Business Innovation Watch



Welcome to the Spring 2017 edition of our *Legal Business Innovation Watch*, an e-update detailing recent press coverage of how the professional services community is responding to the major regulatory and other market change.

*Legal Business Innovation Watch* takes over from our *Legal Services Act Update*. Moving on from its original confines focusing on the immediate impact of the Legal Services Act, this new Update provides a wider perspective on the ongoing changes within the legal services sphere.

Please do give us your feedback, as ever.

Best regards,  
Clare Rodway  
Managing Director  
0207 323 3230  
[clare@kysenpr.co.uk](mailto:clare@kysenpr.co.uk)

**Press summary**  
**Issue: Spring 2017**

---

## Contents

LSB launches investigation into SRA's independence as CILEx considers separate regulator .....	4
Solicitors to be allowed to work in unregulated businesses .....	4
Should the SRA be allowed to impose fines of more than £2,000? .....	5
New calls for SRA to be given strike-off powers .....	5
ABSs still 'more innovative' than traditional firms.....	5
AXA teams up with ABS to launch app-based legal service .....	6
Traditional law firm rescues ABS .....	6
Artificial intelligence will support lawyers .....	7
Legal tech solutions should be focused on outcomes for clients .....	7
Advocacy skills for the 21 <sup>st</sup> century: less flamboyant, more business-like.....	8
Lawyers going freelance to become a major trend.....	8
MPs urge government to preserve access to EU legal services market .....	8

## **Kysen – Legal Business Innovation Watch, Spring 2017**

For many lawyers, regulation is a necessary evil, a set of rules designed to protect the many against the misdeeds of a few. How much the post-Clementi framework should be reviewed, then, is a matter of on-going debate and controversy. Some commentators wonder why the Legal Services Board is so intent on complete [structural separation](#) of the Solicitors Regulation Authority from the Law Society. There are concerns too with the SRA's proposals that solicitors should be allowed to practice in [unregulated entities](#). From a solicitor's personal perspective, however, the possibility that the SRA should be allowed to impose fines of [more than £2,000](#) and have the power to [strike off](#) delinquent elements would be the greatest change to the system.

Aside from the separation of regulation and representation powers, the other Clementi novelty was the introduction of alternative business structures. The number of new ABSs has slowed down but the regulator still believes they bring [more innovation](#) to the sector than traditional law firms. This may be true, as in the case of the new artificial intelligence app launched by [Axa and rradar](#), but sometimes this appears to come at a cost, as in the case of the troubled insurance ABS Triton, which was bought out by law firm DWF last month.

Innovation and technology will nevertheless continue to be front of mind in the sector. It is becoming accepted that artificial intelligence will radically alter the delivery of legal services. Despite fears it could lead to job losses, proponents say it will positively [support lawyers](#) in their jobs, with some putting it in terms of alliance between [lawyers and robots](#) to deliver the best outcomes for clients. Meanwhile, in terms of advocacy, the emerging trend will be one where flamboyant oratory skills will be replaced with mostly written and online submissions and business-like [case management](#). Technology will also enable lawyers to be freer about how they work, with some predicting the rise in [freelance lawyers](#).

But whether the legal services market will remain as buoyant after Brexit is an issue which is starting to worry some in the sector. So much so that MPs have now called on the government to consider re-joining EFTA so that access to the [EU's legal services market](#) can be preserved.

---

## REGULATION

### LEGAL SERVICE BOARD - SOLICITORS REGULATION AUTHORITY - CILEX

#### **LSB launches investigation into SRA's independence as CILEx considers separate regulator**

The Chartered Institute of Legal Executives is considering a new governance framework that would pave the way for complete structural independence for its regulatory arm, in line with expected government change.

The plan, driven "primarily by a desire to embed best practice within the organisation and ensure its operation is transparent and promotes good decision making", would also ensure that CILEx continues to be viable as a professional body without receiving any income from practising fees.

Similar moves have been resisted by the Law Society, which has argued that current arrangements, with the Solicitors Regulation Authority as an arms' length regulator, are appropriate. The Legal Services Board, however, has launched an investigation into the current setup, saying it doesn't give the SRA sufficient independence. The society's president, Robert Bourns, said any further action to hive out the SRA from the Law Society as the approved regulator would be unnecessary.

The CILEx reforms would introduce a new group structure with a group board with an overarching duty to the public interest and the profession's reputation. Cilex's law school, Cilex Professional, Cilex Group Services would fit just below, with Cilex Regulation keeping a separate board.

Source: [Legal Futures](#), 23 February 2017; [Law Careers](#), 27 February 2017

### SOLICITORS – UNREGULATED ENTITIES

#### **Solicitors to be allowed to work in unregulated businesses**

The Solicitors Regulation Authority has confirmed it wants to proceed with allowing solicitors to work in unregulated entities.

At present solicitors may only work for or be employed in regulated entities, such as traditional law firms and alternative business structures, unless they work in-house and only advise their employer but not the general public.

Under proposals first unveiled in the SRA's Looking to the Future consultation, solicitors would not have to come off the roll if they choose to work in non-regulated entities.

Commentators, including the Law Society, have warned that this could lead to a two-tier profession and that some solicitors may become compromised under commercial pressure.

Source: [Solicitors Journal](#), 19 January 2017

## **SOLICITORS REGULATION AUTHORITY – FINES – TRIBUNAL – STANDARD OF PROOF**

### **Should the SRA be allowed to impose fines of more than £2,000?**

Experts have identified five key areas that could go through significant change before the end of the year, starting with the regulator's power to impose fines of more than £2,000.

At present, the Solicitors Regulation Authority may levy fines of more than £2,000 only on alternative business structures. To impose a fine on a law firm above that threshold, the matter must be referred to the Solicitors Disciplinary Tribunal. Any change to the regulator's fining powers will require the Ministry of Justice to intervene. This could take time, but some experts argue that evening out fining powers upwards is essential in a modern entity-based regulatory environment.

A review of the tribunal's approach to the standard of proof also looks inevitable following the High Court's ruling in the *Arslan* case, where Mr Justice Leveson called for the tribunal to look again at the issue. The civil standard of proof is the norm in all but three regulatory tribunals, and some say the SDT's continued application of the criminal standard is out of step with the prevailing regulatory climate.

The arrival of a new SRA handbook, ongoing pressure for the SRA to become fully independent from the Law Society, and the impact of Brexit on the legal services sector are the other three areas lawyers should keep their eyes on, experts say.

Source: [Lexology](#), 9 January 2017

## **SOLICITOR REGULATION AUTHORITY – FINES - STRIKE-OFF**

### **New calls for SRA to be given strike-off powers**

The Solicitors Regulation Authority is facing calls to be turned into a first-tier tribunal with powers to impose fines above the current £2,000 limit and to strike off solicitors.

The argument goes that the requirement for more serious cases to be referred to the Solicitors Disciplinary Tribunal "flies in the face of more streamlined regimes".

Instead, there are calls for the SDT to become an appellate body for parties appealing against SRA decisions.

The current system, he said, was "inefficient and costly and must not be allowed to survive much longer". He suggested cases such as that of Phil Shiner could have been dealt with much more efficiently and at a lower cost had the SRA been able to deal with prosecution from beginning to end. As matters stand, costs are estimated to be around £500,000 and there are doubts Shiner will be able to pay, meaning the profession will be left to pick up the bill.

Source: [Legal Futures](#), 15 February 2017

## **ALTERNATIVE BUSINESS STRUCTURES**

### **INNOVATION – PERSONAL SERVICE - CONSUMERS**

#### **ABSs still 'more innovative' than traditional firms**

The Solicitors Regulation Authority's policy director has insisted that alternative business structures have been more innovative than traditional law firms and have responded to changing consumer demand more swiftly.

Speaking at SIFA's 25th anniversary reception, Crispin Passmore said consumers and small business wanted services that were "more personal, more tailored to them, and more affordable. It's a tough challenge to meet for any business but one you have to rise to if you want to survive and thrive."

Referring to research in October last year, Passmore added that consumers increasingly wanted a one-stop solution to their problems. "They don't have financial or legal problems; they have issues," he said. It was "an odd thing" he said, for the supply side of the market to put the responsibility on consumers for making the decision about whether to approach a legal services firm or a financial adviser.

ABSs, he concluded, had been more innovative in this regard than both regulated firms and non-regulated providers, with new ideas flowing into businesses alongside external capital investment.

Source: [Solicitors Journal](#), 27 February 2017; [Law Society Gazette](#), 1 March 2017

## **TECHNOLOGY – APP - INSURANCE**

### **AXA teams up with ABS to launch app-based legal service**

AXA has teamed up with alternative business structure radar to launch a Watson-powered app to business customers.

The app comes with a virtual assistant called Grace, to whom users will be able to ask questions either verbally or by typing them in.

The first module will cover HR practice and employment law. Other modules are expected to follow, covering health and safety, corporate manslaughter, property, environmental law, waste management duties and contract law.

"The machine-learning technology provided by IBM Watson ensures that the more AXA's customers use the app, the more intelligent it becomes in delivering straightforward and relevant content," the companies said in a statement.

Source: [Legal Futures](#), 9 March 2017

## **INSURANCE – TECHNOLOGY – PRE-PACK**

### **Traditional law firm rescues ABS**

Manchester-based law firm DWF has bought out Triton, an alternative business structure set up in 2013, which specialises in end-to-end insurance services around the world.

Triton is the latest ABS to have run into financial difficulties after a promising start. It was one of the first to introduce employee ownership and the business is understood to be profitable.

The pre-pack deal will save all 215 jobs and will see Triton staff redeployed across DWF's offices. Triton's technology business, 3Sixty, a software consultancy, is also part of the deal and will be merged with DWF's own legal innovation consultancy, 15Squared.

The move signals DWF's intention to expand further in the insurance sector, both nationally and internationally.

Source: [The Business Desk](#), 24 January 2017; [Legal Futures](#), 25 January 2017

## TECHNOLOGY

### ARTIFICIAL INTELLIGENCE – ROBOTS - AUTOMATION

#### Artificial intelligence will support lawyers

Routine tasks such as creating or reviewing contracts, spotting potential fraud and undertaking in-depth data retrieval will soon be carried out by robots and lead to radical change in the legal services sector, commentators are positing.

Increased automation will likely see existing jobs decrease but could lead to job creation in other forms, they say, while making law more readily accessible to more people.

Artificial intelligence is currently the development arguably causing the most excitement and fear in equal measure. Supporters, such as former lawyer Noory Beechor, founder of LawGeex, says contract lawyers no longer need to “re-invent the wheel” each time they have to create or review a document. AI-based tools are also less likely to miss things.

Andrew Arruda, founder of ROSS, a system based on IBM’s Watson, said lawyers should think of AI as a modern-day calculator, making lawyers more efficient from day one and allowing them to focus on lawyering skills rather than on grunt work.

Source: [CNBC](#), 17 February 2017

### ROBOTS – LEGAL STAFF – CORE SKILLS

#### Legal tech solutions should be focused on outcomes for clients

Artificial intelligence promises to bring greater consistency and deliver more reliable outcomes in certain areas of legal work, saving lawyers hours of research and clients thousands of pounds.

But there is also concern that jobs could be lost as a result of the rise in artificial intelligence solutions in law firms, writes The Link App founder Lauren Riley in *Solicitors Journal*. That has already happened in the insurance sector. Riley also cites a report by Deloitte that more than 30,000 ‘low level’ jobs such as legal secretaries would be at risk in the next 20 years.

However, Riley argues, the cleverest AI system cannot – yet – articulate persuasive arguments because of its limited grasp of context; nor can it replace human interaction.

To make technology work for them, Riley says, lawyers should focus on their key core skills as professionals and look at AI as one of the many tools they use to deliver the best possible service for clients. Machines can keep clients up to date without further need to engage, but only human beings are able to develop qualities such as building trust, ethical behaviour, and accountability. Blending AI systems in human-driven services should be the way forward, she suggests.

Source: [Solicitors Journal](#), 14 March 2017

## **ADVOCACY – ORATORY SKILLS – CASE MANAGEMENT**

### **Advocacy skills for the 21<sup>st</sup> century: less flamboyant, more business-like**

The extensive news coverage given to the advocates appearing in the article 50 case is evidence that courtroom dramas can still muster high levels of public attention. But advocacy is moving on since the days of Rumpole, says Nottingham Law School advocacy director Jeremy Robson.

As long as the rule of law remains at the heart of democratic society, so will the lawyers who seek to protect individual rights in court. Lawyers' skills, however, are evolving to become less about flamboyant oratory presentation and more about focused, business-like case management.

The cuts to legal aid and the move towards online courts will likely see advocates spend less time in court and more on written submissions and videolink appearance. But as the romance disappears, Robson says, the purpose of advocates as defenders of the rule of law will remain.

Source: [Lawyer2B](#), 3 February 2017

## **OUTSOURCING - FREELANCE LAWYERS**

### **Lawyers going freelance to become a major trend**

Technology and millennials coming into the world of work are beginning to reshape traditional career patterns in legal services, says Matthew Kay, director of Pinsent Masons' contract lawyer business Vario.

"This new generation, in addition to putting an emphasis on work-life balance, also values creative and meaningful work like no other generation. Workplaces must adapt to these new employee motivators," says Kay.

One such motivator is the possibility of working freelance through a resourcing hub such as Vario, which assigns lawyers to specific projects. These placements typically last between six and 18 months and involve working from home along with some hot-desking from the client's offices.

Kay predicts that lawyers going freelance will be a major trend in the coming years, bringing with it flexibility for all concerned and, for the lawyers, the ability to learn more skills as they move from one post to another.

Source: [Solicitors Journal](#), 21 February 2017

## **LEGAL SERVICES MARKET – BREXIT - EFTA**

### **MPs urge government to preserve access to EU legal services market**

The government must preserve access to the single market in legal services following Brexit and should consider re-joining the European Free Trade Association (EFTA), MPs have said.

In a report, the House of Commons' International Trade Committee cited evidence from the Law Society supporting the argument that the UK should retain participation in the two EU lawyers' directives and in the mutual recognition of qualifications directive.

According to Mickael Laurans, the society's head of international policy and engagement, leaving the single market would render the UK vulnerable to restrictions on legal practice that vary among member states and rights of audience before EU courts could be lost by UK lawyers. There might also be problems regarding clients' ability to benefit from legal professional privilege.

In a separate article, the Economist says EU law will continue to apply to trade between the UK and the EU, with the result that Britain will remain, to this extent at least, within the jurisdiction of EU laws and the European Court of Justice.

*Source: [Law Society Gazette](#), 8 March 2017*

ENDS