



# City Solicitor

The newsletter of the City of London Solicitors' Company and the City of London Law Society



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## City of London Law Society

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### Solicitors Benevolent Association Christmas Cards

A reminder that a wide selection of cards, available to order online can be viewed at [www.cards2print.co.uk/sba](http://www.cards2print.co.uk/sba)

Whichever card you choose, the SBA will receive 40% of the card and print costs

## Editorial



All the leaves are brown - it seems far less than a year since I wrote the Editorial for our Autumn edition last year, but here we go again: the terrifically busy Autumn season which includes the Lord Mayor's Show, the Livery Dinner, and a range of activities sponsored or

hosted by our professional committees. Details of all of these appear in the reports of the committees in this Edition.

Our cover model is easily recognisable – Alderman David Lewis, who has just come to the end of his year as Lord Mayor and will, in time, return to us as Senior Warden. Recently, the Lord Mayor found time to chat informally to the Editorial Board about his year, for which we remain hugely grateful. A report of the interview is within.

Our series of glimpses into other Livery companies continues with a skilfully crafted piece on the Tallow Chandlers by Past Master Peter Purton, who is also a Past Master of that Company.

City of London Law Society events are also well reported in this edition, with details of the recent Conference of World City bar Leaders, and a visit to the EU. The importance of the CLLS to the City profession cannot be underestimated, and its continued involvement in professional networking is a laudable achievement of its indomitable Chairman, David McIntosh.

And finally...Fox is back, his appetite for fast and expensive vehicles almost sated by his visits to some specialist events. Details on the back cover...

John Abramson  
AIG, Editor

## Dates for 2008

### THE CITY OF LONDON SOLICITORS' COMPANY

Mon. 24<sup>th</sup> Nov. \* Court meeting at 11.00 a.m.  
followed by luncheon at 1.00 p.m.

Thurs. 27<sup>th</sup> Nov. Livery Dinner, Goldsmiths' Hall,  
Foster Lane, EC2 at 7.00 p.m.  
Liverymen and Guests.  
Dinner Jacket (Black tie)

### THE CITY OF LONDON LAW SOCIETY

Wed. 3<sup>rd</sup> Dec. † Committee of the City of London  
Law Society at 11.00 a.m.  
† Carvery Lunch at 1.00 p.m.

\* At Cutlers' Hall, Warwick Lane, EC4.  
† At Butchers' Hall, Bartholomew Close, EC1.

### NEW MEMBERS OF THE CITY OF LONDON SOLICITORS' COMPANY

The following people have been admitted as Freemen of the Company, in person and in absentia:-

Vikki BANKS	- Freshfields Bruckhaus Deringer LLP
Samuel James BOYLING	- Pinsent Masons LLP
Sara CHANDLER	- The College of Law
William DEEPROSE	- Freshfields Bruckhaus Deringer LLP
Mariana ELLISON	- Freshfields Bruckhaus Deringer LLP
Rachel Mary FOXTON	- Kaplan Law School
Adam Jonathan GALLAGHER	- Freshfields Bruckhaus Deringer LLP
Eoin HAYDEN	- Skadden, Arps, Slate, Meagher & Flom
Julian HICKEY	- Berwin Leighton Paisner LLP
Diana HIRD	- Gensler
Andrew Michael HOUGIE	- Dechert LLP
Naomi IVES	- Freshfields Bruckhaus Deringer LLP
Simon JOHNSTON	- Nabarro LLP
Katherine Angharad LYONS	- Freshfields Bruckhaus Deringer LLP
Charles MARTIN	- Macfarlanes
David PESTER	- TLT LLP
James Alistair PRATT	- Pinsent Masons LLP
Felicity REES	- Freshfields Bruckhaus Deringer LLP
Peter RICHARDS-GASKIN	- TLT LLP
Diana Jane SIMMONS	- Weil, Gotshal & Manges
Jean Marie SWIECA	- Linklaters LLP
David WELCH	- Rice-Jones & Smiths
Simon WELLER	- Freshfields Bruckhaus Deringer LLP
Tsim Alan Farrington WHARTON	- Macsteel International
Simon Anthony WILSON	- Tax & Legal Consultancy Ltd
Katrina YOUNG	- Freshfields Bruckhaus Deringer LLP

The following Freeman has been admitted as a Liveryman of the Company:-

Natalya Samantha PILBEAM	- Herbert Smith LLP
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## Master's Word

Alexandra Marks, *Master*



**In these times of unprecedented economic turbulence and uncertainty, the social, ceremonial and charitable activities of the Livery Company may seem at best irrelevant and at worst a distraction. I would argue otherwise.**

It is precisely in such challenging circumstances that we rediscover the importance of our profession's values and attributes - commitment, honesty, integrity, determination, putting others first and respect for the rule of law - all of which have been embraced and celebrated by the Company for over 100 years.

I thought a remarkable example of solicitors' resilience in difficult times emerged from an extraordinary story I heard the other day. A small firm of City solicitors recently called together eight of its associates and broke to them the bad news that, due to declining workloads and reduced partner drawings, at least one of them would have to be "let go". Later, the associates returned to the partners to say that they would rather work fewer hours - perhaps four days a week each - and accept proportionately lower pay, than for any of them to lose their jobs.

That got me thinking. Perhaps this is an example of "Generation Y" coming into its own. For many years now we have heard how the ambitions and aspirations of Generation Y (now in their mid-thirties and younger) differ so much from those of the "baby boomers" (born 1943 to 1960) and "Generation X" which followed them. Generation Y, we're told, are more peer-oriented - perhaps a contributing factor to the premium that Generation Y workers place on workplace culture. They are exceptionally tech-savvy, especially aware of their own value in the job market, and insist on working in a stimulating job environment. Work-life balance is increasingly important to them too: they place more value on flexibility and agility in the workplace than location or even pay.

These characteristics are borne out by a groundbreaking research report entitled "Legal Lives - Retaining Talent Through a Balanced Culture", whose launch I attended this

week. A dozen City firms (including my own) took part in the study, which was commissioned by Addleshaw Goddard from Working Families ([www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)). Key findings were that law firms are aware of the challenges posed by differing generational expectations around work-life balance, a greater readiness to embrace mobile working and demographic shifts redefining the workplace culture. In particular, firms wish to address the gender imbalance at senior levels - and in some cases have the will to build on flexible work initiatives - but in practice there is little evidence of any striking change in culture, or of flexible working being embedded in the mainstream of their businesses. On the contrary, there are widespread misconceptions that work-life balance is synonymous with part time or reduced hours, and is a concession for the few at the expense of the many.

The Legal Lives report - which draws on in-depth discussions with participant firms' managing board members, transaction heads, focus groups of fee-earners and on completed questionnaires from firms' clients - calls for review of work processes to encourage "smarter" working; focussing on changing the culture to support balanced working, and fostering better out-of-office working.

Isn't it possible that, far from the current economic climate providing yet another barrier to achieving these goals, it presents a once-in-a-lifetime opportunity to review the way we work (and live)? If we are no longer able to blame ever-growing workloads, complexity of transactions and increasingly demanding clients for the punishing hours and presenteeism typical of City solicitors, is there anything other than money which is stopping us from changing? Just a thought: I'd welcome yours...

# Interview with the Rt Hon the Lord Mayor of London, Alderman David Lewis.



The Mansion House was a riot of colour when the Administrator and I arrived at the appointed time; preparations were well under way for a reception for one of the Lord Mayor's chosen charities – the women's health charity Wellbeing of Women.

We were not attending the reception. Rather, we were delighted that the Lord Mayor had agreed to spend some time with us chatting about his year in office – perhaps a rare insight for the benefit of our readers. The Lord Mayor met us in the reception area, beaming in welcome, and ushered us into the orderly calm of his beautiful office in the heart of the Mansion House.

Alderman David Lewis is the 680th Lord Mayor, and is proud that he is only the 8th Welsh Lord Mayor of the City of London. David is also our own Liveryman, and we have the wonderful honour of being his mother company. In fact, David currently also holds the office of Senior Warden of the Company, having been elected to that position at our 2008 AGM. This makes him only the second Solicitor (note the capital "S") to occupy the Mansion House, following in the footsteps of Sir Robert Finch a few years ago.

David is clearly thoroughly enjoying his year in the Mansion House. He is youthful and fit, and has given so much of himself to the mayoralty during his term of office. Unreservedly, he says that being Lord Mayor is certainly the best unpaid job in the world with the best supporting team you could wish for in the Mansion House. Hard work, but fulfilling and rewarding.

A few facts about being Lord Mayor: Firstly, this is not to be confused with the Mayor of London. The Lord Mayor is the Mayor of the City of London, and not any of the other boroughs of Greater London. The City has its own budget. The Lord Mayor is not paid a penny and holds the office for 12 months. There are no party politics in the mayoral elections, so he is independent and has no party affiliations. The Mayor (of London), on the other hand, is elected to a paid position based on party political lines. The Mayor has no authority within the City other than over its public

transport (but even then, not over the Lord Mayor's golden carriage). The Lord Mayor is the Head of the City of London Corporation, and also has a national and international role as the ambassador for all UK based financial and professional services.

In this role, the Lord Mayor promotes the "City" brand name as the world's leading financial and business centre. He is unique in this role, and David has relished this responsibility. David informed us that, during his year, he has travelled for over 100 days and visited 23 countries on four continents, as well as intensive travel within the UK (even including Wales).

Crucially, being a lawyer has allowed David added facility in selling English law and our sophisticated dispute resolution regime to companies in other countries. He rightly points out that no one in any other country is able to do this for their legal system. When travelling, he always sees the local Minister of Justice, a superb opportunity to discuss relevant legal issues of the day. The English legal system therefore becomes one further exportable item, an immediately apparent added benefit of having a solicitor in the Mansion House.

When not on the road, David has spent much of his waking time supporting the Livery. He diffidently confirms that he meets with a Livery company every day. He is clearly impressed by the wide range of activities promoted by the Livery Companies, ranging from charitable work, education, training cadets of the three forces, and hosting terrific dinners. He estimates that the Livery raises in excess of £50 million for charities, all in a most unassuming way. During his year, he has tried to reveal the hidden treasures that reside deep in the City – opening the magnificent Livery Halls to the public, for example, and encouraging more high profile support of popular sporting endeavours such as the Olympics. The synergies are apparent – the Cutlers already support fencing,

John Abramson, AIG

and the Fletchers, archery. Matching up Livery Companies with various sports may present an entertaining challenge – tug-of-war for the Ropemakers perhaps, or mental gymnastics for the Solicitors?

David enjoys talking, which is lucky because he estimates he will have given about 1,000 speeches during his year – more than the Queen and more than any government minister. He did not say if any of those were in Welsh.

I also asked him about the highlight of the year: without hesitation, David identified the Lord Mayor's Show, and how could it not be? An audience of over 3 million television viewers, 500,000 citizens on the streets, 6,000 participants, 180 vehicles, 70 floats, 21 working bands and a ride in the wonderful golden carriage, topped off by an incredible fireworks display, all in his honour. Unofficially, however, David also referred to a visit to Mansion House by one of Europe's most popular national figures, Madame Sarkozy.

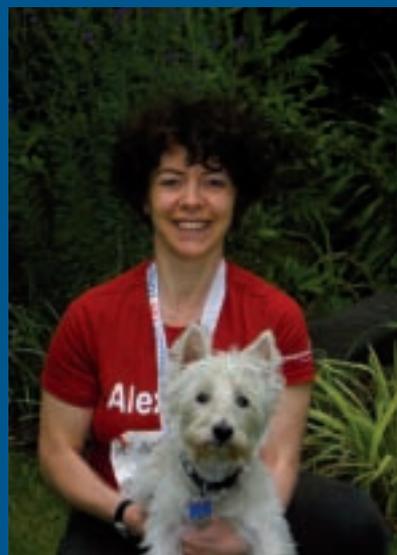
And what about life after the Mayoralty? First item on the

agenda will be a retreat to Wales for some well deserved R&R and certainly no aeroplane flights for a long time to come. David will maintain his consultancy at Norton Rose, but would like to use the ambassadorial experience he has gained to become a business champion of his beloved country – Wales.

In short, it is clear that David and Theresa have had a fabulous year in Mansion House. He regards his term of office as an enormous privilege, and is modest about his achievements during his year. To us as City solicitors, however, he is able to say that City law firms are tremendously well respected abroad, miles ahead of everyone else. We have a great product to sell, and he is clearly delighted to have had an opportunity to sell it.

As we left David's office, he accompanied us back through the colourful halls of the Mansion House, and I could see the pride that he has for the Mayoralty and all it represents. His commitment has not gone unnoticed. We welcome him back to his Livery duties with our hearty congratulations.

## 10K Run on behalf of The Sheriffs' & Recorder's Fund



The Master, Alexandra Marks recently completed a 10K Run to raise money for the Sheriffs' and Recorder's Fund.

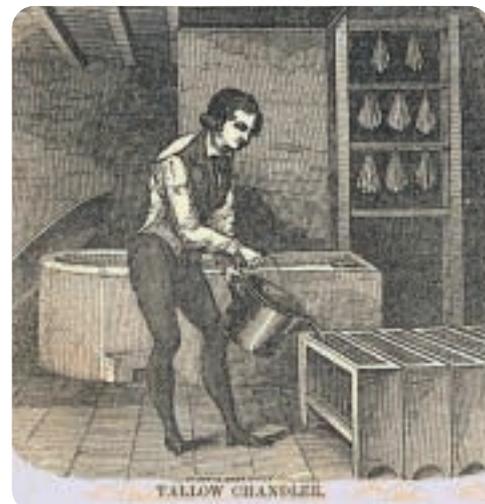
Alexandra is pictured before the race with Lady Prue Davies, Chairman of the Fund and Jason McCreaney of the Society of Young Freemen, and after the race with her training companion "Jazzy". Donations to the Sheriffs' & Recorder's Fund can be made

c/o Central Criminal Court,  
Old Bailey, London EC4M 7EA.



# Let there be light

Night's candles are burnt out  
and jocund day  
Stands tiptoe on the misty  
mountain tops



Strange it may seem but – pace The Wax Chandlers and latterly The Lightmongers – the City would have been a dark and dull place without the efforts of the “Wardyns of the Craft of Taloughchaundlers” whose lanthorns provided the wayfarer with light for centuries.

The date of incorporation of any Livery Company – and that of the Tallow Chandlers in 1462 was comparatively late – gives no indication of its actual age. Though the Company was first mentioned in 1283 the first Master was not recorded until 1461. But there is ample evidence that the trade or craft of tallow flourished long before that. And it continues to do so. Ask any lady if she appreciates tallow and you are likely to get a pretty stuffy answer. How wrong she is. Refined tallow today is a mainstay of many of the most famous and successful skin lotions.

The Company has had a long and – like most – an occasionally chequered history. Its first Hall is believed to have been near Old Broad Street but it will come as little surprise to learn that its move to Dowgate Hill where its present Hall stands proud – accompanied by the Skinners and the Dyers – was somewhat more than encouraged by the Lord Mayor of the day who found the smell generated by the combined effluent of these three noble Companies eclipsed the ambient perfume sought by him and his successors for the Lord Mayor’s residence.

So 4 Dowgate Hill it became where one of the most momentous moments in the Company’s history was recorded – the loss of its second Hall on that site in the Great Fire of 1666. Fortuitously the Master of the day personally supervised the removal of all the Company’s records and artefacts before the fire reached the Hall. In consequence it is one of the few Livery Companies that has retained all its original records.

The Hall was rebuilt in 1672 and is the building you see today in its sheltered close off Dowgate Hill - very little changed over the centuries. It is believed that the Court Room is in its original state and is the oldest working Livery Court Room in the City. And that is in spite of the Luftwaffe’s efforts to alter the path of history. Happily the bomb which fell in the corner of the Hall, while causing some structural damage, did not go far. Sadly Skinners Hall next door took the full force of the rest of the stick and had to be rebuilt.

Like many Companies its health has fluctuated over the years. Funding and numbers were a constant problem. But the situation has changed dramatically and has more than kept pace with the remarkable revival and growth of the Livery Movement in recent years. Central to this fact were two initiatives. The first was the establishment of a new Committee in 1987 which minutely examined the Company and its workings and shaped the vision of the Company as it is today. This was buoyed by the greatly improved business results emanating from the sale of the Company’s properties in Bishopsgate – a row of somewhat elderly and rundown cottages – to the developers of contemporary Smithfield. They were the key which unlocked that site.

The Company – 21st. in order of preference among the number of some 107 now in existence- has never looked back. Although relatively small in numbers it punches far above its weight. Much of its current success may also be attributed to the variety of members which it draws from a wide range of activities associated with the trade and the City and the great fellowship which flows from that feature. It also accounts for the long waiting list of those wishing to take the Freedom and Livery of the Company today.

Move forward. Even in the five years since the Author was Master the demands on the Master of the day and the various

Peter Purton, Past Master

Committees – not least Education and Charity - have continued to grow.

The Companies' funds and the Benevolent Fund are at their highest level. The Court meets regularly. The Finance and General Purposes Committee represents the powerhouse of the Company. Hall Management, Education and Charity, Livery Liaison and Investment are very active. The position of Clerk is key and the Company has been blessed with a succession of first-class holders of that role – all boasting an earlier successful military career. The present incumbent is no exception.

The Company has increasing links with FOSFA (the Oil Seeds and Fats Association), BP, and the National Grid with training of young offenders where experience has shown that historic re-offending rates of some 80% plus drop to 7% among the young people undertaking this training. Treloar is a major interest of the Education and Charity Committee as is St.Paul's Cathedral School, the City and Guilds Institute and the Guildhall School of Music. And there are many more.

And yes - are you sporty? Join one of the best all-Livery crews on the water in our Thames Waterman's Cutter, or help our Tennis Team to win the Inter-Livery Cup for the eighth year in succession, or shoot up into the higher echelons of the Inter-Livery Clay Pigeon Competition, play good Golf and Bridge. And for those with a quieter disposition join our excellent Historical Group.

The Company has transformed itself. Unreflecting conservatism has given way to enthusiastic sponsorship of vocational training, cash grants to students and meaningful charitable donations. The handclasp with the Company's constituent trades is firmer than ever.

And do permit the Author a final indulgence. The Company now possesses one of the finest Cellars in the Livery Movement. Guess who is the current Chairman of the Wine Providitors Committee and drinks your good health! May the Company flourish root and branch for ever.

Reference: "Seven Centuries of Light" by Gordon Philips



# Conference of World City Bar Leaders

On 2nd- 4th October, the City of London Law Society was honoured to host the 5th Conference of World City Bar Leaders. This two and a half day event was attended by 26 delegates from 13 bar associations around the world including Amsterdam, Brussels, Budapest, Chicago, Frankfurt, Hong Kong, Montreal, New York, Paris, Philadelphia, Singapore, Tokyo and Toronto. Members of the CLLS's corporate member firms also attended the daytime programme sessions.

The programme, which had been designed to focus on the issues and concerns of legal practitioners in the world's largest cities, covered a range of important topics of relevance to the profession. Highlights of the programme included a consideration of the role of judges, of contrasting regulatory regimes, of the role and reputation of the profession in different jurisdictions, and of human rights. Delegates were particularly interested to hear about a proposed "global standard" for legal training, and in the discussions concerning whether lawyers can also be businessmen and the manner in which the face of legal practice is changing in various jurisdictions. We were also privileged to have contributions from a number of high-profile speakers including Lord Goldsmith, Lord Neuberger, Sir Gavin Lightman, Peter Williamson, Guy Beringer and Roger Smith OBE.

But it was not all work. The delegates also enjoyed a varied social programme which show-cased London at its best, including a pre-event tour of Old Bailey followed by dinner at Cutlers' Hall, a reception at the Reform Club organised by

the College of Law and a Banquet at the Mansion House in the presence of the Lord Mayor, with Lord Bingham of Cornhill as the guest speaker.

This extremely successful event would not have been possible without the very generous support of the College of Law as well as Allen & Overy LLP, Clifford Chance LLP and Freshfields Bruckhaus Deringer LLP, who each kindly hosted one day of the event. This not only allowed delegates to visit three world-class law firms, but also enabled them to experience three quite different areas of the City.

There is no doubting the value of bringing together legal practice leaders from the world's largest cities and this was confirmed by the enthusiasm of all who attended the Conference business and social sessions. We are already looking forward to the next conference which the Tokyo Bar Association has agreed to host in Tokyo in March 2010.

The Conference of World City Bar Leaders was another highlight of our centenary year and our sincere thanks go to all those involved.



*Session at Clifford Chance LLP. Speakers included Peter Williamson, Chairman of the SRA, Stephen Denyer from Allen & Overy LLP, Tomas Baert from the European Commission and David Syed from Orrick.*



William Whittaker from Toronto Lawyers Association with Stephen Denyer



L to R, Mrs Liz Wootton, Alderman David Wootton, Catherine Boyd and William Whittaker from Toronto Lawyers Association.



Guests at the Conference Dinner at the Mansion House

Chairman of the City of London Law Society, David McIntosh and Jenny McIntosh



L to R, Stephen Schenke from Montreal Bar Association with Karin and Lutz Simon from the Frankfurt Bar Association



The Master, Alexandra Marks with the Lord Mayor at the Conference Dinner at the Mansion House.



Professor John Salter with delegates from the Tokyo Bar Association



Conference Dinner at the Mansion House



Judge E Kenneth Wright Jr, President of the Chicago Bar Association with Stephen Schenke from Montreal Bar Association



Barbara Berger Opatowsky from the New York City Bar Association with Alastair Collett from the City of London Law Society



Paul Kazaras from the Philadelphia Bar Association with Michael Offer from TLT LLP and William Whittaker



A session at Freshfields Bruckhaus Deringer



Lord Goldsmith, Roger Smith OBE and Professor John Salter speaking on Human Rights.



Delegates from the Chicago Bar Association

# CLLS visit to the EU

## The City of London Law Society's (CLLS) EU Working Party recently concluded a successful visit at the European Commission.

(The working party consists of David McIntosh (Chair, CLLS), Stephen Denyer (Allen and Overy), Stephen Revell (Freshfields Bruckhaus Deringer), Mike Pretty (DLA Piper) and Robert Leeder (Policy and Committees Coordinator, CLLS). The visit was part of the CLLS's ongoing liaison with the Commission, and will be followed up by further meetings in due course. The visit included meetings with officials from several directorates, including Trade, Services & Investment, Internal Market (including Internal Market – Services), Competition, and Justice, Freedom & Security.

One of the key outcomes of the visit was that the CLLS committed to develop a proposals paper on multi-jurisdictional legal practice. It is intended that the paper will:

- In broad terms, list and examine the factors that would enable multi-jurisdictional law firms to operate more effectively throughout Europe, as well as those factors that currently inhibit such operation. (One such enabling factor would be the achievement of greater uniformity between the various European states' regulatory systems);
- List the sorts of activities that a multi-jurisdictional firm should ideally be able to undertake in any given European jurisdiction;
- Establish that the regulations affecting multi-jurisdictional law firms need to be improved; not increased; and

- Show, in concrete terms, why the deregulation of the provisions affecting multi-jurisdictional law firms is an urgent and pressing matter for Europe that will benefit consumers and increase industrial competitiveness.

This constitutes a formidable task, and the Society is in the process of identifying a suitably qualified academic with research capabilities and practical experience of commercial practice in the City to be retained to assist the EU Working Party.

It is expected that the resulting paper will form the basis for further discussions between the CLLS and the Commission.

The discussions with the Commission also provided the CLLS delegation with an insight into the recent activities of the directorates, including the state of negotiations regarding the liberalisation of various national legal services markets.



# Committee Reports



## TRAINING

The key training-related event happening this Autumn is the launch by the SRA of a

complete review of the Qualified Lawyers Transfer Regulations (the "QLTR"). At the time of writing, the Consultation had not been launched so the detailed proposals are not available. However, the Paper should be available from the SRA's website ([www.sra.org.uk](http://www.sra.org.uk)) by the time this edition of "City Solicitor" is published.

The QLTR is long overdue for review. The QLTR regime has been largely unchanged for the best part of two decades while during that period there have been substantial changes introduced or planned to the domestic route to qualification. Furthermore, the legal environment has changed with the English legal profession increasingly looking outside its borders for new recruits, with many of those being eligible to requalify under the QLTR.

Indeed, approximately 20% of new entrants to the profession each year have followed the QLTR route.

The numbers of QLTR entrants to the profession coupled with the concerns the SRA has over some of those entrants (as first highlighted in the Consultation earlier this year on the interim changes to the QLTR) has prompted the planned root & branch review.

The proposals are likely to include:

- a substantially extended and more rigorous Test;
- plans to widen the number of jurisdictions covered by the Regulations; and
- the abandonment of the work experience requirement to which some of the jurisdictions currently within the scope of the Regulations are subject.

An extended Test has the merit of potentially raising standards by requiring the new entrants following this route to have more training in this jurisdiction's law & practice. Furthermore, depending on the detail coverage of the new

exam regime, it may go some way to address current concerns over the divergence between the domestic & QLTR exam obligations. However, more exams may well lead to the cost of following this route to qualification increasing. Will that reduce the numbers following the QLTR route? If the cost of the process puts some would-be entrants off, will that not undermine (to some extent) the SRA's plans to use the extended exam regime to improve quality?

Widening the number of jurisdictions eligible to follow the QLTR qualification route will remove the barriers to qualification which at least some lawyers from jurisdictions around the world currently face. However, it is not likely that the QLTR route will, in future, be open to lawyers from every jurisdiction around the world. Therefore, lawyers from certain jurisdictions will continue to have to follow the full domestic route to qualification if they wish to become solicitors. Whether that is an issue will depend on which jurisdictions will come within the scope of the revised regulations. The profession at large and the member firms of the CLLS will need to take a view on the impact of the proposals on the status of the brand of "English solicitor" and on the professions national & international commercial activities when the details are available in the Consultation Paper.

The removal of the work experience aspect of the QLTR is a step away from the requirement of English law experience which underpinned the interim changes to the QLTR introduced by the SRA in September 2008. The detailed requirements which such work experience currently needs to satisfy has caused issues for lawyers working for many member firms of the CLLS so this change will probably be welcomed. However, in terms of maintaining/improving quality, will the more rigorous Test balance the removal of this practical experience requirement?

The result is that the proposals will potentially have a significant impact on:

- all firms which employ lawyers eligible to requalify via this route;
- the profession at large given the numbers of new entrants to the profession coming in under the Regulations; and
- the international status of the brand of "English solicitor".

It is, therefore, important that the SRA receive responses from a broad range of interested parties, including in particular member firms of the CLLS.

As with all training-related Consultations issued by the SRA, the Training Committee will be submitting a Response on behalf of the CLLS.

# Committee Reports

In addition and as a reflection of the potential importance of these changes to CLLS member firms, the Training Committee have organised an Open Meeting for all member firms to discuss the proposals and to help the Training Committee formulate the CLLS Response.

Member firms will receive an e-mail invitation to the Open Meeting which will be held in early December at a venue in the City. The Open Meeting will cover an explanation/discussion of the proposals and that will be followed by a question & answer session with the SRA officials responsible for the review.

The Training Committee strongly urges members to submit their own Responses whether that takes the form of supporting the CLLS Response prepared by the Training Committee or sending in their own.

In future editions of "City Solicitor", the impact of the changes once implemented will be reviewed.

Tony King, *Chairman*, Clifford Chance LLP

## REGULATORY

The CLLS Regulatory Committee meets monthly and from June 2008 until present has submitted the following papers.

1. **A response to the FSA Discussion Paper (DP8/02):**  
*'Transparency Disclosure and Conflicts of Interest in the Commercial Insurance Market'*  
The Committee noted that the payment of an undisclosed or 'secret' commission to an agent from a third party does not necessarily indicate corruption. Though the payment of a secret commission raises issues in relation to the breach of civil law fiduciary duties, this should not be confused with corruption, as corruption requires an element of dishonesty which might or might not be present when any such payment is made.
2. **A response to the FSA Consultation Paper (CP08/6):**  
*'Review of client asset sourcebook'*  
The Committee commented on the fact that a number of provisions of CASS (CASS 2.1.24, CASS 2.2.10(5), CASS 2.2.15(2)(b) and CASS 2.3.14) have either been deleted or are not carried forward into the new rules and it was of the opinion that these provisions should be retained as they were useful, offered valuable flexibility and, in the case of the removal of CASS 2.3.14, could be inconvenient for overseas clients. The Committee supported the retention of the opt-out from the client money provisions for professional clients and eligible counterparties as being a valuable provision which offers a degree of flexibility.  
  
The Committee disagreed with the FSA's proposal to change the exemption for money held by a bank as banker as this would necessitate requiring certain non-EEA institutions, which operate in the UK through a branch, and which are approved banks, to open bank accounts with their own subsidiaries or other credit institutions which would be unnecessary as well as it being rather odd if an approved bank could not hold money with itself as banker.  
  
The Committee further noted that transitional provisions would be helpful to firms.
3. **A response to CP08/10 and DP08/3**  
The Committee expressed serious concerns about the FSA proposals in relation to Own Initiative Variations of Permission ("OIVoPs"), which are intended as a move to bring about greater transparency. The Committee took the view that the proposals risk sacrificing fairness and it would not be a legitimate use of an OIVoP to 'name and shame' firms without following due process, nor indeed would it be a particularly effective method of publicising FSA concerns about particular conduct. The FSA appears to intend to use OIVoPs not just for supervisory purposes but also as an enforcement tool and the Committee expressed concern that this potentially would be ultra vires. In addition if OIVoPs were to be used as a tool of public censure, the Committee was concerned that they could be used as a way of circumventing the FSA's established disciplinary powers under FSMA. The Committee requested further clarity from the FSA on how it intended a 'streamlined' investigation of public censure cases to operate and noted deep concern over the FSA's intention to publicise confidential information received from firms.
4. **A response to the Tripartite Authorities' July 2008 Consultation on Financial Stability and Depositor Protection: Special Resolution Regime.**  
The Committee continued to query the need for a special resolution regime or special insolvency procedure to deal with failing banks in light of the proposed changes to the Financial Services Compensation Scheme (which would achieve many of the expressed objectives of protecting depositors and enhancing public confidence).

## Committee Reports

The Committee considered that if the special resolution regime is implemented as proposed, it will have significant effect on the regulatory capital requirements and the legal certainty of netting and collateral arrangements of UK banks, making credit relationships with UK banks less attractive. The Committee took the view that it would be more proportionate to regulate to prevent UK banks entering into inappropriate netting or collateral arrangements than to cast doubt on their enforceability. The Committee was further concerned that no cost-benefit analysis had been undertaken into the likely impact of these proposals.

The Committee voiced its concern about possible overrides to some contractual rights being ill-defined and potentially capable of creating or extending regulatory capital exposures which would otherwise terminate.

The Committee called for the FSA and other regulators to exercise regulatory forbearance when dealing with the possibility of breaches of the large exposures requirements of regulated counterparties, through circumstances beyond their control.

Finally, the Committee noted the importance of avoiding dual regulation from both the Bank of England and the FSA during phases of the special resolution regime.

**Margaret Chamberlain, *Chairman*, Travers Smith LLP**

## INSURANCE

**The Insurance Law Committee has continued to follow closely the review of insurance contract law which the Law Commission is conducting.**

There has been something of a lull while the Commission worked through responses to its consultation paper on misrepresentation, non-disclosure and breach of warranty; but we are expecting to have further issues papers to

comment on shortly in relation to post-contractual good faith. The Committee has also considered a number of other legal and regulatory developments: in particular we responded critically to proposals by the FSA to prohibit misselling costs being charged to the inherited estates of with-profits life insurers.

**Ian Mathers, *Chairman*, Allen & Overy LLP**

## LITIGATION

**The Litigation Committee has continued to monitor and respond to public consultation in relation to proposed changes in law and procedure in the litigation arena.**

In May, the Committee submitted a response to the Civil Justice Council consultation on a general pre-action protocol. In July, the Committee responded to the SRA consultation on possible changes to the regime for solicitor higher courts advocates. At its recent meeting in September the Committee discussed the current consultation by the Civil Procedure Rules Committee in relation to the proposed amendments to CPR Part 44 to introduce powers in relation to cost capping, and the Committee is will be submitting a response later this month.

One of the major issues affecting commercial litigation this year is the current Commercial Court pilot of the procedural changes recommended by the Commercial Court long trials working party in their report of December 2007. The trial period runs until the end of November. The Committee will be holding an open meeting towards the end of November or early December to provide an opportunity for practitioners across the City to discuss the reforms and give feedback to the commercial judges. Details of this event will be available shortly.

**Lindsay Marr, *Chairman*,  
Freshfields Bruckhaus Deringer LLP**

**The Insolvency Law Committee is seeking applications from prospective new members. Applicants must be experts in domestic and cross-border insolvency law, have a City-based practice, and be willing to contribute regularly to the work of the Committee. To apply (or to find out more, with a view to applying), contact the Chairman, Hamish Anderson at Norton Rose LLP (hamish.anderson@nortonrose.com; telephone 020 7283 6000) as soon as possible and in any event no later than Monday 12 January 2009.**

## My search for new motoring experiences took me on journeys East and West of Cornhill during the Summer.



The British International Motor Show took place in the amazing exhibition halls at ExCel, a few miles East of the City. Some 60 manufacturers showed over 600 vehicles. The new cars on display ranged from the retro-styled Fiat 500 (as driven by the CLSC chairman) to a Bugatti Veyron (capable of 250 mph, costing over £1 million and entirely suitable as a staff car for the CLLS motoring correspondent).

A record of the 2008 show is at [www.britishmotorshow.co.uk](http://www.britishmotorshow.co.uk). Perhaps the most interesting development was the emphasis on greener driving. Hummer's stand focussed on the smallest of its current range, the right-hand-drive H3. Toyota is the world leader in hybrid technology with cars ranging from a well-established family car (the Prius at £18,500) to a luxury limo (the LS 600h at nearly £84,000 for the long wheelbase version). Honda's lightweight hybrid sports car, the CR-Z, was on display making its UK debut. Cadillac, Citroën and Honda all showed concept cars powered by fuel cells.

And who would have guessed a couple of years ago that the Motor Show would feature an Electric Vehicle Village? There were over 20 electric models on display from the familiar, cheeky G-Wiz to Tesla's sensational two-seater designed and manufactured in California available with both a folding fabric roof and a removable hard-top. By comparison with any other electric car, the Tesla's performance is astonishing. 0 to 60 in 3.9 seconds with a top speed of 125 mph. If the car is being driven sensibly the range is well over 200 miles. The secret? A highly sophisticated electronically controlled transmission and a lithium ion battery pack. I am hoping to drive new models

from NICE (No Internal Combustion Engine), an electric version of the Smart (which is currently undergoing fleet appraisal) and the Fiat 500 (where an all-electric version is in the final stages of development.)

Other highlights of the Motor Show included:

- Dodgems (and I apologise again to the lady in the white T-shirt);
- a remote-controlled barrier costing over £100 (which I circumvented in seconds using a TV remote control);
- the Heritage enclosure with 40 supercars; and
- true exotcars from makers such as Spyker and Koeniggsegg.

A very different event took place in West London at the beginning of July. The Third "Salon Privé", a magical show of classic and luxury cars was held in the beautiful grounds of the Hurlingham Club. The Concours d' Elegance included some truly wonderful cars including a Bentley Blower, several Bentley Continentals, three Ferrari 250 GT Spyders, examples of all the sports cars which created Jaguar's reputation (XK 120, XK 140, XK 150, C-type, D-type and E-type) an Aston Martin Zagato and a Ford GT 40. Exhibitors of new cars included Bugatti, Keating, Lamborghini and Maybach.

I recognized no City solicitors at the Salon Privé this year. Dates and other details of the 2009 event are at [www.salonprivelondon.com](http://www.salonprivelondon.com). Let's be optimistic about the economy and hope that next year will be different.