



# THE CITY OF LONDON LAW SOCIETY

4 College Hill  
London EC4R 2RB

Telephone 020 7329 2173  
Facsimile 020 7329 2190  
DX 98936 – Cheapside 2  
mail@citysolicitors.org.uk  
www.citysolicitors.org.uk

Cerys Jones  
Policy Support Unit  
Solicitors Regulation Authority  
8 Dormer Place  
Leamington Spa  
Warwickshire  
CV32 5AE

8 May, 2009

Dear Cerys

## **Consultation Paper on decision making criteria**

The City of London Law Society ("CLLS") represents approximately 13,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations and other requests for views on issues of importance to its members through its 17 specialist committees. This Consultation has been considered by the CLLS's Professional Rules and Regulation Committee. The Committee comprises representatives of 12 firms (as listed in the appendix to this letter).

Turning to the specific questions in the Consultation:

### **Q1: Do you think that the criteria that we have published are clear and can be understood easily by all of our stakeholders and users, including lawyers and non-lawyers?**

Subject to the considerations outlined in answer to question 2, the criteria are clear and easily understood. The links to the principles, guidelines and relevant rules or legislation are very helpful.

### **Q2: We are committed to ensuring that our decision-making process is more transparent. Do you think that publishing our criteria will help us to achieve this?**

The publication of the criteria applied to decisions will assist in making the process more transparent. However, it will only "ensure" transparency where the list represents a complete overview of the criteria to be applied by the decision maker.

Of the 12 published criteria which are currently in use, only 5 appear to contain a complete list of the criteria which will be applied to the decision. Of the balance, two refer to other codes or guidance (which

have been considered as part of earlier consultations), and 5 state that the listed criteria "are relevant but not exhaustive".

We accept that developing a complete list of criteria is challenging in relation to certain categories of decision, and would not want to unnecessarily constrain any decision where it is appropriate to do so. That said there are two categories of decision dealt with in the currently published guidance where exhaustive criteria should be achievable:

- issuing a certificate of good standing or attestation; and
- waiver of the requirement to deliver an accountants report.

Where a complete list of applicable criteria cannot be developed (or is inappropriate), we believe that the guidance should be supplemented with a clearly defined and transparent procedure for identifying, reviewing and approving additional criteria considered on a case by case basis. This element of the decision-making process also needs transparency.

**Q3: Do you think it would be helpful for us to refer to the specific published decision making criteria when we make our decisions?**

Yes. Demonstrating that specific decision have been arrived at with due consideration of the relevant decision-making criteria is important in building confidence in the process and its credibility.

**Q4: Would it be helpful if the criteria, or our website, gave examples of how the criteria might be applied in practice?**

This should not be necessary where the criteria applied are complete and clearly articulated. As noted in our answer to question 2, where the list is necessarily left open there should be a clearly defined procedure for including other criteria for consideration in the decision-making process. Practical examples may be helpful in these circumstances.

**Q5: At the moment, the decision-making criteria are only available on our website. Would you like the information to be available elsewhere?**

Providing anyone who is the subject of a matter being considered under any of the decision-making criteria is made aware of the guidance at the earliest possible opportunity in the process, no.

**Q6: Do you think the application of these criteria could have an adverse impact on any of the following groups within the profession?**

We do not think that the application of these criteria will have an adverse impact on any of the groups listed (older or younger solicitors, men or women, solicitors with a disability, solicitors from any particular ethnic background).

We hope these views are of assistance. Representatives of the Professional Rules and Regulation Committee would be happy to elaborate if that is required.

Yours sincerely

**David McIntosh**  
**Chairman**  
**City of London Law Society**

**Chris Perrin**  
**Chairman**  
**Professional Rules & Regulation**  
**Committee**

**APPENDIX  
PROFESSIONAL RULES & REGULATION COMMITTEE**

Chris Perrin - Clifford Chance (Chairman)

Raymond Cohen - Linklaters

Sarah de Gay - Slaughter and May

Alistair Douglas - Travers Smith

Brian Greenwood - Taylor Wessing

Antoinette Jucker - Pinsent Masons

Jonathan Kembery - Freshfields Bruckhaus Deringer

Heather McCallum - Allen & Overy

Julia Palca - Olswang

Mike Pretty - DLA Piper

John Trotter - Lovells

Claire Wilson - Herbert Smith

© CITY OF LONDON LAW SOCIETY 2009.

All rights reserved. This paper has been prepared as part of a consultation process.  
Its contents should not be taken as legal advice in relation to a particular situation or transaction.