



Response to LSB Thematic Review Discussion Paper:

Are regulatory restrictions in practising rules for in-house lawyers justified?

Overview

1. The Law Centres Network is the membership body for Law Centres in England, Wales and Northern Ireland, each of which is a not-for-profit legal practice providing legal help and advice in civil law, with a particular focus on social welfare law. Law Centres support the rule of law and, as part of it, universal access to justice. In particular, they target their services at the most disadvantaged and vulnerable people and groups in society, helping make their rights a reality and aiming to tackle the root causes of their poverty or disadvantage.
2. Law Centres are embedded in local communities and run by committees of elected local people drawn from community, legal sector and health sector organisations. The Law Centres Network ('LCN', the trading name of the Law Centres Federation) has coordinated and represented Law Centres collectively since 1978. There are currently 44 Law Centres across the UK represented by the Network. They are primarily funded by a mix of civil legal aid contracts, local authority grants or contracts and fixed-term project grants from charitable trusts and foundations.
3. LCN submits the following comments on behalf of the Law Centres Movement and, for the reasons explained, would welcome the opportunity to engage in further discussion. We recognise that the LSB paper is the start of a process for bringing together commentators as part of a thematic review.

Comment

4. Law Centres are non-commercial entities, most commonly set up as charitable companies regulated by the Charities Commission and under the Companies Acts. Law Centres currently have transitional protection from regulation under the Legal Services Act 2007 (Section 23) (the 'LSA'). Qualified Lawyers conducting reserved legal activities are authorised and regulated as individuals by the relevant regulator, such as the Bar Standards Board and the Solicitors Regulation Authority. Lawyers are not directors of the Law Centre company. As most Law Centre Lawyers are solicitors, the majority of LCN regulatory business in the legal sector is with the SRA.
5. Law Centre Lawyers make up a small minority of the total regulated lawyers and are sometimes treated on a par with in-house lawyers or sole practitioners in the working of regulations and Codes of Conduct. The relationship of their employing body with the employed lawyer is often

not fully understood by regulators and it is this area, and the interpretation of practising rules, that often generates complexity, particularly in relation to interpretation of supervision and regulation, issues arising from client complaints or in company closures.

6. Areas that have given LCN cause for concern in recent times include: the oversight and requirements of regulated lawyers who, in their personal capacity, are Law Centre company trustees; physical ownership of client files; complaints as to activity by the Law Centre company (such as delays in financial transactions) that may find their way to the LSA regulator; clarity about the duty to supervise non-reserved legal activities that are peripheral to the main reserved activities; and the potential for dual regulation such as between the SRA and FCA in financial activity that can increase costs and impact on measures to maintain routes of access to justice.

7. Discussions as to some of these areas are ongoing with the SRA as they arise and it is understood that there is a need to clarify the arrangements for Law Centres and their Lawyers. For this reason we have not set out detailed case study examples, where application of practising rules in relation to in-house lawyers have impacted on Law Centre Lawyers, but anticipate that this thematic review may help consolidate our discussions with the regulatory bodies.

8. LCN welcomes the LSB intention to consider the nature of restraints in practice and to focus on the nature of any regulatory restrictions on individual lawyers that may arise as a result of their employer not being regulated in the provision of reserved legal services. We would appreciate any opportunity to contribute further to discussions and the outcome of this review.

For further details contact:

Cathy Gallagher

Solicitors Regulation and Pro Bono Development Lead

Law Centres Network

T: 0203 637 1341

E: cathy@lawcentres.org.uk

Law Centres Network, Floor 1, Tavis House, 1-6 Tavistock Square, London WC1H 9NA

www.lawcentres.org.uk