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Book review

The Law of Legal Services



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This book rises to meet a formidable challenge: a comprehensive analysis of regulation, professional liability and business issues for legal practices (and not just solicitors). Its obvious competitor is *Cordery on Legal Services*, over which, to the reviewer's eyes at least, it has the advantage of being contained in one hardbound volume, rather than looseleaf. It is also available in electronic format and there is a website of resources and links to support it.

Substantial

The text covers a substantial variety of topics. The first section covers the regulatory framework of the Legal Services Act 2007 as it applies to solicitors, barristers, licensed conveyancers, trade mark attorneys, patent attorneys, and notaries. Inevitably there is a greater focus on solicitors and barristers than other branches of the legal profession.

It deals with matters such as client care, conflicts of interests, undertakings and separate business. Authorisation is addressed, and there is extensive and useful coverage of misconduct and tribunals.

There is a comprehensive section on lawyers' liability, covering fiduciary and other duties and negligence, followed by a section on insurance. The insurance chapter includes sections on the main exclusions from cover, such as trading debts, dishonesty (with particular attention to condoning dishonesty, which is a hot topic at present, and sham

partnerships), and aggregation (which is already in need of an update in the light of *AIG Europe Ltd v OC320301 LLP & Ors* [2015] EWHC 2398 (Comm), such is the pace of change in this field of practice).

Perhaps unexpectedly, but to be welcomed, there is also an extensive chapter of 52 pages on protection of lawyers' goodwill, covering confidential information, copyright and know-how, restraint of trade, fiduciary duties and more.

Few criticisms

Criticisms are few, but if there is one, perhaps it sometimes tries to achieve too much, covering ground normally covered in books on a wide variety of topics such as professional discipline, lawyer liability, professional indemnity insurance, LLPs and even insolvency. Inevitably, some areas attract only brief mention, such as regulation of accountants providing legal services. Financial crime and anti-money laundering are given only a brief overview and the section is really too short to be of any assistance to practitioners, in marked contrast to the section on goodwill mentioned above. Independence has become a growing issue on conduct investigations, particularly since the revision of the SRA guidance in 2009, quite apart from the recent SRA-commissioned research on the subject, and more on this topic might have been of some interest.

The reviewer found a small number of errors (eg, the decision in *European Risk Insurance Company HF v McManus & Ors (t/a McManus Seddon Runhams (A Firm))* [2013] EWCA Civ 1545 did not determine that the blanket notification was effective to bring all subsequent claims under the policy) but they do not detract from the work as a whole.*

On the other hand, there are some areas which might usefully be developed, such as the hot topic of misusing client account as a banking facility. It is to be hoped that the authors will feel able to rise to the challenge of new, updated editions with reasonable frequency, as this is a practice area of constant change. The law is stated at 1 May 2015, but already, for example, we have seen the statement that an LLP member can be an employee overtaken by the decision in *Reinhard v Ondra* [2015] EWHC 26 (Ch), [2015] EWHC 1869 (Ch).

Useful one-stop shop

For practitioners specialising in the law of legal services it is a useful addition to the established works, both for its comprehensive coverage and occasionally touching on areas missed in some of the other works, for example, exempt European practices, though it is unlikely to replace the established works, particularly on topics such as professional liability.

For the busy risk partner/compliance officer or law firm general counsel, it is a useful one-stop shop covering most of the issues they are likely to meet in practice.

Overall, this work is commendable and recommended. It is to be hoped that it will be revised and updated from time to time.

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* Author's note: This comment may arise from a misunderstanding of paragraph 10.164. Paragraph 10.164 indicates that the principle is that: "provided the circumstances giving rise to a claim exist and are notified, then all future claims arising out of those circumstances should be dealt with by the insurer". In the case of *McManus* it was not intended to suggest that all subsequent claims would be covered by the policy but that all the subsequent claims arising from the notified circumstances:

"10.164 Notice given by a third party, such as a claimant, will not normally satisfy the requirements of notification. However, provided the circumstances giving rise to a claim exist and are notified, then all future claims arising out of those circumstances should be dealt with by the insurer. This is the case even if an actual claim does not materialise until after the policy has expired. In *McManus Seddon Runhams v European Risk Insurance Company*, the firm made a notification of 32 claims relating to a predecessor practice. Following a review of 110 additional files the firm notified its insurer, ERIC, that there were potentially 5,000 matters that could result in a claim. The court determined that the blanket notification was effective to bring all of the subsequent claims under the policy."