

Opening of the Legal Year 2023

Friday 27th September 2024

Law Council Chairman's Speech

Chief Justice, I also welcome His Excellency the Governor, the Chief Minister, the Minister for Justice and other distinguished guests.

Introduction

1. My Lord it is a privilege to address you for a fifth year running.

The Legal Services Regulatory Authority

2. As has become customary, I turn first to the work of the LSRA in the past year.
3. First and foremost, I would like to thank the LSRA's first CEO David Dumas for his vision, contribution and drive in the establishment of the LSRA and for overseeing the full commencement of the Legal Services Act last year.
4. The Council wishes him a very happy retirement from his regulatory role. I for one hope to see him take up his robes again and rejoin our ranks, other commitments permitting of course.
5. We also warmly welcome its new CEO Francis Muscat who has hit the ground running and whose significant regulatory experience as former CEO of the Office of Fair Trading has no doubt been very positively received at the LSRA and as it has by the profession.

AML/CFT

6. Firms have just submitted the new format Annual Returns, an enhanced version of the Risk Assessment Questionnaires.
7. Whilst these require more information from firms, I have not been advised of any concerns regarding the new format. Firms have been adapting their onboarding and accounting procedures in line with the evolving requirements of the RAQs over the last few years and will continue to do so, so that by next year the greater information required by the Annual Return will be much easier to gather and report on.
8. My impression from the feedback received to date is that the detail and volume of information requested remains, to adopt a familiar term, 'reasonable and proportionate' to the LSRA's regulatory functions.
9. As anticipated, most of the firms already engaged in Relevant Financial Business will continue to bear the costs arising from such regulation whereas others are choosing to steer well clear of such work when the volume does not justify the costs of operating a full compliance regime. These are mostly smaller firms and sole practitioners focused primarily on litigation.

10. The Council has assisted the LSRA in a review of certain aspects of the Legal Services Act which would benefit from revision in order to better align its role with the current realities of legal practice. We will naturally welcome the opportunity to continue to assist with this review.
11. We understand that the necessary amendments to the statutory framework for admission of solicitors who wish to qualify under the new Solicitors Qualifying Examination route are currently being considered. The Council awaits further developments in this regard with great interest as this is already a pressing issue for the profession.

The Ministry of Justice

12. The Council is pleased to report that it has met with the new Minister for Justice and that it continues to enjoy a fluid relationship with his team.
13. The Council is keen to progress the review of the Duty Solicitor Scheme this year.

The Duty Solicitor Scheme

14. We are now in the seventh year of the Scheme.
15. The new Roster, which will take us to 30 September 2025, will commence on 1 October with 8 practitioners on the Senior Panel and 20 on the Legal Aid List.
16. This is a loss of four practitioners from the main list compared to last year.
17. My view is that the current numbers can sustain the demands of the service whilst a timely review of the scheme will ensure that next year we have a healthier list which places less of a burden on the shoulders of the participating cohort.

The Employment Tribunal

18. For the second year running I am pleased to report positively in relation to the Employment Tribunal.
19. At my last meeting with the Director of Employment Ms Debbie Garcia, together with her team and President of the Tribunal Gabrielle O'Hagan, further and welcome news of progress in its caseload and facilities was provided.
20. This has no doubt been helped along by the diligence of the Tribunal staff and the much anticipated permanent home which is now a reality. Although final touches are being applied to the premises in order to make them fully operational, the main boardroom is available and used when the Finance Ministry's boardroom is in use.
21. I am informed that the turnover of cases in which a chairperson has been appointed is now at a satisfactory level with matters being actively case managed and progressing through to judgment without undue delay.
22. Significant progress has been achieved through the work of both the President and the part-time Chair Mr Stephen Bossino.

23. Unfortunately issues of conflict, in particular involving Government parties, continue to arise and the backlog of such cases awaiting appointment of a chairperson is higher than the Ministry would wish, despite their best efforts to reduce those numbers. It is hoped that an imminent recruitment drive for additional Chairpersons and Mediators will help to address this perennial issue. Clearly, finding chairperson appointees who do not represent Government in their practices and, almost as importantly, have no intention to do, so must be prioritised.
24. Much needed guidance for Tribunal users was issued by the President in May and I understand that a suite of updated procedural forms is also due to be published shortly.
25. Finally, I would like to thank the Ministry, Ms Garcia, the Tribunal President Ms O'Hagan and the Tribunal's staff for their continued receptiveness and attention to the issues raised by the Council on behalf of our members.

The Courts Service

26. The Council's relationship with the Courts Service continues to work well with all matters of common interest being positively addressed via the offices of Chief Justice, the Registrar and the CEO.
27. The Council has been refreshing its list of matters for discussion at the Court Users Committee and will be requesting an opportunity to meet in the coming months.
28. I would like to wish Justice Ramagge Prescott a happy retirement from the Bench and to wish her all the best in her new role as Speaker.
29. Once again, I would like to thank the Courts Service on behalf of the litigation Bar for the availability of Court time, resources and for the timely turnaround of judgments upon which our work and the jurisdiction's reputation as a forum of choice depends.

The Magistrates' Court

30. I would like to wish former Stipendiary Magistrate Mr Charles Pitto a happy retirement and on behalf of the Bar thank him for his contribution during a long career as Crown Counsel, Puisne Judge, Stipendiary Magistrate and Coroner.
31. I would like to formally welcome our new Stipendiary Magistrate Mr Charles Bonfante to the position and thank him for including the Council in the consultation regarding Preparation for Effective Trial Forms. We look forward to working with him and his team on matters of common interest.
32. A final word of thanks on behalf of our practitioners to Registrar Mr Karl Tonna for stepping in until the post was filled by Mr Bonfante.
33. Once again, and on behalf of the criminal Bar in particular, I would also like to thank the members of the Lay Bench, the Clerks and their staff for their work in this very busy and demanding court.

The Law Council

34. The Law Council held its first Annual General Meeting under its new constitution – the first since Covid – last November.
35. The Council is now made up of a healthy mix of practitioners of all seniorities with a balance of male and female Board members.
36. All sub-committees have been populated and it has been a real pleasure to work with such a highly motivated and industrious team with levels of enthusiasm unseen since well before the pandemic.
37. In the past year our work has focused around refreshing of various internal matters such as changing banks, updating our website (which will be launched shortly) and the following external activities:
 - We have invited a representative of the employed bar, Mr Anthony Ladislaus, to update us on issues of relevance to them in anticipation of the commencement of the remaining provisions Legal Services Act, which will bring them within its regulatory regime. We very much look forward to maintaining an open line of communication with them and addressing their specific concerns
 - As I already mentioned, we have been consulted by the Stipendiary Magistrate in relation to the introduction of the new Preparation for Effective Trial Forms along with the Director of Public Prosecutions and his team.
 - We have met with the Gibraltar University team delivering the Gibraltar Law Courses along with course leader and fellow practitioner Samuel Marrache, who was also invited to a meeting of the Board. It has been agreed that the Council will now be formally consulted on course content and delivery which is very much welcomed. In fact there have already been extensive discussions with the University which have resulted in at least one new topic being introduced this year pursuant to our recommendation and the possibility of a number further topics being introduced as from next year. I would like to thank Nadine Collado for her excellent work in relation to the Gibraltar Law Courses since they began and to wish her a happy retirement. We look forward to working with her successor.
 - We have been consulted by the LSRA on proposed revisions to the accounting rules and have been pleased to see our proposals welcomed and incorporated. We look forward to working with Mr Muscat on other issues of common interest including any legislative changes in order to enable the SQE route as a way into the profession in Gibraltar.
 - Our seats on the LSRA Board have also enabled the Council to continue to assist in shaping the regulatory landscape in a manner that is sensitive to the realities of legal practice in Gibraltar.
 - Finally and on a lighter note, the Board is currently considering a Gibraltar version of the London Legal Walk, a fundraising event which would be open not only to people working in the field but also to associated third parties such as law enforcement and the various regulators. So watch this space.
38. I would like to thank all Board members for their respective contributions which have been many and greatly appreciated and, once again, in particular Vice-Chair Ms Emma

Lejeune who is now also the Chair of the Finance Centre Council with our seat on the FCC now being filled by David Montegriffo.

39. I would also like to thank our secretary Ms Nabila Gomez for her assistance to the Board and particularly for her help this year with organising what will be the largest lunch ever hosted by the Council with just short of 140 attendees. A word of thanks to our honorary Treasurer Michael Adamberry for his attention and diligence in relation to this key aspect of our activity.

Personal note

40. You will be glad to hear that this will be my last speech as Chairman of the Council for the foreseeable future, as I will be stepping down from the position at the next AGM.
41. It has been a pleasure and a privilege to serve on the Council for over fifteen years, the last five as Chairman and the previous years as Treasurer.
42. During that time I have had the opportunity to be closely involved in a number of projects and consultations including the creation of the LSRA, the reform and overhaul of the Employment Tribunal and its associated legislation, various reforms of Legal Aid and Assistance, the creation of the Duty Solicitor Scheme and the introduction of the new Financial Services Act, to name a few.
43. The biggest challenge has undoubtedly been supporting the interests of the profession alongside other stakeholders during the Covid years and with a very reduced Council during that period.
44. If I may be permitted to offer a personal reflection. The local legal sector has evolved considerably in that time and in so many ways, but if I had to choose the most positive development it would have to be the exponential growth in the representation of women in the profession.
45. We have had our first female Silk, our first female Judge (now our first female Speaker), our first female Minister for Justice and our first female Shadow Minister for Justice as well as other female practitioners in key positions in firms, the employed Bar, Government service and other Ministerial positions. Closer to home our first female Law Council Vice-Chair who is also the Finance Centre Council Chair.
46. In my humble view, the sector is a much better place for this and it should continue to support our female practitioners by ensuring flexibility in our work structures which accommodate the realities of working mothers.
47. To those women entering the profession and worried about glass ceilings I say: "Make sure you pack a hammer along with your wig and gown".

Today

48. I now turn to today's events.
49. I thank the Bishop for holding the Red Mass today.

50. Once again we enjoyed a strong attendance at the Mass which continues to be organised by our Vice-Chair Emma Lejeune. This is our third year with live organ music to accompany the service, a feature which is no doubt here to stay.
51. We now look forward to receiving our members and guests at the Rock Hotel later for lunch.
52. On that note, I second the motion that the legal year be opened.

Kenneth Navas
Law Council Chairman