

Opening of the Legal Year 2023

Friday 29th September 2023

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 fourth year running.

The Legal Services Regulatory Authority

2. I turn first to the work of the LSRA which continues to take shape and in turn to shape the work and direction of the legal services sector.

AML/CFT

3. This year practices have undertaken independent audits to test their AML/CFT/CPF polices, controls and procedures, for a second time. Whilst the novelty of the process last year presented challenges for most firms, most of them have reported a much smoother process this time round, which, whilst to be expected, is certainly welcome news.
4. The costs arising from the increased regulation of legal practices undertaking Relevant Financial Business, means that small firms, including sole practitioners, who may have undertaken modest amounts of work in this area from time to time may, in all likelihood, increasingly choose not to and to focus on other areas of work.
5. Last year I referred to the Council's awareness of a reluctance by new entrants to the market to undertake such work and its expectation that these requirements would result in a decline in the emergence of small practices engaging in Relevant Financial Business. This expectation remains.

Full Commencement of the Legal Services Act

6. January saw the full commencement of the Legal Services Act pursuant to which the LSRA assumed the regulatory functions of the Registrar (which it had been discharging on a delegated basis until that date).
7. With the exception of in-house practitioners caught by section 6(3)(e)(i) of the Act, all other practitioners and firms are now required to register under its relevant parts and to pay the appropriate fees.
8. I would like to commend and thank the LSRA team for the significant preparatory work in anticipation of the Act's commencement and in particular for its generous assistance to practitioners and firms alike in shepherding us all through the registration gate in good time for commencement. This was a completely new experience for the whole of the

sector and the LSRA's guidance in all respects - from technical advice on which part to register under, to basic form filling – has been indispensable and greatly appreciated.

9. Full commencement of the Act has resulted in the Law Council finally gaining a statutory basis under the Act with the benefit of a new constitution.
10. I will return to this in a moment.

Code of Conduct

11. The various branches of our sector, including barristers, solicitors, legal executives and law costs draftsmen continue to be subject to their English Codes following the revocation of our own Code of Conduct 2022.
12. The Law Council Board hopes to be able to recommence discussions with our membership with regard to the development of our own Code in the near future.

The Ministry of Justice

13. The Council is pleased to report that the Ministry of Justice continues to keep an open door to us on all matters of common interest.
14. The pending review of the Duty Solicitor Scheme will be a priority for the Council in the coming year.

The Duty Solicitor Scheme

15. We are now in the sixth year of the Scheme.
16. The new Roster, which will take us to 30 September 2024, will commence on 1 October with 9 practitioners on the Senior Panel and 24 on the Legal Aid List.
17. These numbers provide for a sustainable spread of the significant commitments upon our busy practitioners in terms of both time and availability, especially during weekends and festive days.

The Employment Tribunal

18. This year I am very pleased to report positively in relation to the Employment Tribunal.
19. I meet with the Director of Employment Ms Debbie Garcia recently and received very welcome news of significant progress in its caseload.
20. A significant number of cases have now progressed through the mediation stage and have been allocated a chairperson.
21. The backs of the lists have finally been broken by the appointment of two part-time Chairpersons in April this year. Ms Gabrielle O'Hagan as President and Lead Chairperson and Mr Stephen Bossino as part-time Chairperson.

22. The breadth of experience and expertise which they bring to their roles has been felt immediately, with many cases which had not progressed for several years now moving steadily with the necessary case management attention and Tribunal time availability which such cases require.
23. I have to say that their reinvigoration of the Tribunal has also rubbed off on other panel chairpersons who are inevitably encouraged and motivated by their example.
24. I am also very pleased to report that the Tribunal will finally be given a permanent home in an accessible area of town with the modern facilities and resources that it needs and deserves. They will also be easily accessible to members of the public and therefore consistent with the requirement for open justice.
25. Finally, I would like to thank the Ministry and Ms Garcia in particular for their receptiveness and attention to any issues raised by the Council on behalf of our members and to the Tribunal's staff for their very attentive service.

The Mental Health Review Tribunal

26. The work of the Mental Health Review Tribunal has now found a rhythm following the significant volume of work generated by the Mental Health Act in the first few years of its existence.
27. Its work has been significantly reduced by the evolution of the GHA's Mental Health Strategy which has placed the focus on treatment in the community with the resultant decrease in medium to long-term admissions and consequent appeals to the Tribunal from patients.
28. Many patients are now successfully living in the community under Community Treatment Orders and independently.
29. Once again I would like commend the continued participation of those practitioners in this complex and challenging area of law and practice and for their considerable assistance to the Tribunal.

The Courts Service

30. The Council continues to enjoy a fluid and cordial relationship with the Courts Service via the offices of Chief Justice, the Registrar and the CEO.
31. This allows, wherever possible, for issues of common interest, and others relevant only to one side, to be addressed in a timely and practical manner for the benefit of all concerned.
32. The Council is grateful to Courts Service for its accessibility to the profession which recognises the pace and time demands of our work. It goes without saying that the greatest beneficiary of this relationship is the wider community in its engagement with the Service.
33. Once again, I must commend the Courts Service on behalf of the litigation Bar and the profession generally for continued offering of Court availability and for the efficiency of its administrative staff in the management of the logistics around hearings. In this

regard, and whilst I am sure that her team is equally deserving of recognition, on behalf of the litigation Bar, this year I would like to thank Ms Kiki Hernandez who manages the Court diary for her diligence, accessibility, patience and unwavering good cheer at all times in her daily interaction with the profession.

34. I repeat my comments of last year: that the Courts Service which we enjoy in Gibraltar in terms of quality of premises, staffing levels and numbers of judges - with the consequent availability of Court time - is simply unheard of in England and Wales where, in particular, criminal matters take many years to get to trial, raising serious questions about the fairness of the justice system for defendants and victims, as well as the viability of this area of work for practitioners.

The Magistrates' Court

35. The Magistrates' Court continues to work closely with the criminal Bar in what is a fast moving and unpredictable area of the justice system with its day's work heavily influenced by a whole range of external forces and in particular by RGP's 'catch of the day'.
36. The efficiency of this Court is key to the continued interest of our members in supporting the needs of publicly funded defendants.
37. Here, once again, and on behalf of the criminal Bar, I would like to thank the Stipendiary Magistrate, the members of the Lay Bench, the Clerks and their staff for their work.

The Law Council

38. The Law Council looks forward to its first Annual General Meeting under its new constitution and with a significantly enlarged membership. This is likely to be held in November.
39. This will be the first since 2019 and will finally allow elections to be held for its Board.
40. This will provide new opportunities for members from all the different parts of the register to occupy seats on the Board and thereby have a permanent participation in its activity.
41. Its various sub-committees will also provide opportunities for a more focused engagement in areas such as law reform and matters of interest to the profession.
42. I would like to thank all Board members and, once again, in particular Vice-Chair Ms Emma Lejeune for occupying the Council's statutory seat on the Finance Centre Council – of which she is now also the Vice-Chair.
43. I would also like to thank our secretary Ms Nabila Gomez who has been instrumental in helping us adapt to our activity under the new constitution and to field a much greater number of enquiries from our much increased membership.

General Observations

44. The biggest development for the profession is no doubt the advent of artificial intelligence.

45. Whilst AI has already been embraced in certain areas of our work such as document management and analysis for some time, this has been the purview of only the largest organisations and firms with the means to develop bespoke systems for themselves.
46. In the coming years, these systems will become more widely available and affordable to firms of most sizes.
47. However, where the impact is most likely to be felt will be in the drafting of bespoke letters and documents. Whereas we have all become used to software which populates template contracts and such standard documents, what has never been available so readily is software which can be used to express complex ideas and arguments in a sophisticated and articulate manner - at the touch of a button.
48. The real impact will only be gauged once the leading platforms start to provide bespoke, jurisdictional specific services.
49. Much of the approach and use of language to convey arguments and ideas which it currently takes many, many years of teaching and learning post-university will now be available at the click of a button to anyone – not just lawyers.
50. The seismic effects of this upon all areas of practice including training, career development, specialisation and client relationships whilst difficult to predict certainly seem inevitable.
51. I certainly look forward to seeing how this change in the landscape is embraced by the profession both here and abroad.

Acknowledgements

52. I would like to congratulate Dr Jamie Trinidad on his appointment to the rank to King's Counsel in February this year. This was a thoroughly deserved recognition of his expertise in public international law and of his contribution to Gibraltar's international interests and the recognition of its unique status abroad.
53. I also note the passing of Mr Louis Waiting Triay KC, the oldest member of the Gibraltar Bar and the world's longest serving lawyer at the ripe age of 94, a mere few weeks after he gave the leading tribute at Dr Trinidad's KC investiture ceremony.
54. A gentleman and a true force of nature, whose legacy was celebrated by the Bar at his tribute in this very Courtroom with some very kind words from his close colleague and friend Mr James Neish KC.
55. He will be missed and never forgotten by those of us who knew him. A stalwart of the Opening of the Legal Year events, he will be particularly missed today.
56. Our condolences go out to his family.

Today

57. I thank the Bishop for holding the Red Mass today which is an important event for many of our practitioners.

58. The attendance at this mass has gone from strength to strength in recent years due in no small part to the infectious enthusiasm of our Vice-Chair Emma Lejeune for this event. We are very grateful to her for this.
59. This year the Council will be hosting its annual lunch once again. This year the number of attendees is significantly higher than usual and this is due, in particular, to our increased membership. We look forward to receiving our members and guests at the Rock Hotel later.
60. And on that note, I second the motion that the legal year be opened.

Kenneth Navas
Law Council Chairman