

**SUBMISSION TO THE LEGAL SERVICES BOARD**

**CONSULTATION PAPER**

**ALTERNATIVE BUSINESS STRUCTURES APPROACHES TO LICENSING**

This response is provided by the Communication Workers Union (CWU). The CWU is the 6<sup>th</sup> biggest independent Trade Union representing approximately 215,000 members.

Our membership are employed in the Postal, Telecommunication and Financial Services industries, covering the whole of the United Kingdom including the Isle of Man and the Channel Islands.

The CWU offers a range of services and benefits which are administered via its Legal Services Department.

Its primary function is to provide free legal advice and representation where appropriate, in personal injury compensation claims. This service is also available to the members' immediate family. The Department provides a similar service to members only on employment law matters. The full range of services can be viewed on the CWU's website address [www.cwu.org](http://www.cwu.org) which includes advice on claims to the Criminal Injuries Compensation Authority and the Industrial Injuries Benefit via the Department for Work and Pensions.

The CWU has a Panel of 14 firms of Solicitors who provide the necessary legal advice and representation on behalf of the membership. We have 6 firms covering England and Wales, 3 in Scotland, 2 in Northern Island and one in each of the Isle of Man, Jersey and Guernsey. The firms in England and Wales are instructed under a Collective Conditional Fee Agreement with the remaining firms instructed under contracts, the terms of which are applicable to their respective legal jurisdictions. In all cases the CWU indemnifies the claimant against any legal costs.

The CWU believe that the introduction of Alternative Business Structures (ABS) will serve to improve the concept of Access to justice. The Trade Union movement plays a major role in providing legal service facilities to over 6.5 million members and their families. Their role as legal service providers cannot be underestimated, not only to members of trade unions, but to society as a whole. Trade Unions have borne the responsibility of ensuring that millions of people in our society are made aware of and have access to the legal system.

In the main Trade Union Legal Services provide advice and assistance in personal injury compensation claims and more increasingly employment law issues.

In providing a range of legal service benefits trade unions have been able to remove the “mystic” that surrounds the legal profession and through building working relationships with its panel firms of solicitors has created an

environment where claimants can feel comfortable and confident in seeking legal redress if they believe they have suffered a detriment.

Our involvement in providing legal services has also benefited the legal profession, insofar that both sides have entered into sensible contract arrangements which have ensured first class service to the claimants, whilst at the same time ensuring mutually acceptable funding arrangements are put in place. In many ways trade unions have been able to remove the concerns and worries consumers may have when embarking on legal action. We have provided a safety net in which they are immune from those members of the legal profession whose main interest is one of securing a fee, as apposed to placing the clients' best interest at the forefront of any representation.

The legal profession has seen many changes and improvements over recent years with the introduction of new regulations covering their activities, all of which has helped to produce a far healthier and transparent environment in which to operate. It is safe to say that irrespective of any future changes in regulations governing the legal profession, trade unions will continue to play an active role in providing its members with the capability to access to justice.

The introduction of ABS is an interesting concept for Trade Unions to explore and in some ways may facilitate a logical next step in their continued provision of legal services. Of particular interest within the consultation documents, are the issues raised in question 6, Access to justice and question 8, Special Bodies and I would like to concentrate our comments on these two areas.

It is clearly beneficial to define what is meant by Access to justice and we welcome your approach in this regard. There needs to be a greater emphasis placed on the needs of the consumer as opposed to the needs of the legal representatives, in order to ensure consumers fully understand their rights and equally as important how to obtain legal advice. Without consumers having easy access to this information then any legal system will fail to maximise its potential.

The Legal Services Board has a clear mandate to change the provision of legal services in the interests of consumers and citizens and with this as an over arching principle, trade unions are ideally placed to assist in this process by considering applying to be licensed under the Alternative Business Structures.

We believe Trade Unions would be suitable applicants. Clearly, we know the legal market place and can demonstrate our ability to function under regulation. Each Union has its own National Rule Book and established procedures under which they operate, under the guidance of the Certification Officer. We have more recently been subject to the Compensation Act 2006 in the form of the code of practice for the provision of regulated claims management services by trade unions. It would, therefore, be sensible to ensure that suitable regulations are in place, in order to ensure the effective running of ABS. It would be desirable that transitional arrangements for

special bodies should continue and be assessed in the light of working experience.

In dealing with the point “is asking an ABS on application how they anticipate that they improve access to justice, a suitable approach”. Again, the answer to this question is yes. In this regard Trade Unions can refer to their involvement to date, with the added advantage of unlike the traditional legal firms, trade unions provide their services on a non profit making basis. This, without doubt, has to be of benefit to consumers’ ability to access justice as they would be confident in the knowledge our main motivation is the provision of legal service, as opposed to profit margins. In an age when the legal profession is under scrutiny in relation to the cost of providing legal services, most recently raised in the Jackson Review of litigation costs, trade unions are ideally placed to play an active role in any future provision of legal services.

In operating under an ABS trade unions will still require the services of legal professions and their ability to practice their profession would not be threatened. What might possibility change is the terms in which they are engaged insofar as their profit costs in successful cases have the potential of being reduced, which can only benefit the legal system as a whole and those associated with it. If creating an environment where greater Access to justice is achieved and the affordability of that service is improved, then this clearly is of benefit to the consumer.

I hope the sentiments expressed in this submission are of assistance to the Legal Services Board and where there are many issues contained within the consultation paper, which we believe are best addressed by the legal profession, it is hoped that we have been able to demonstrate that Trade Unions are ideally placed and suitable for consideration to operate under licence if they so desire.

**Tony Rupa**

**HEAD OF LEGAL SERVICES**

**COMMUNICATION WORKERS UNION**