



**6<sup>th</sup> October 2009**

## **Consultation Paper: The Structure of Self-Employed Practice**

### **PARTNERSHIPS**

We do not see 'barrister only' or other partnership arrangements involving barristers as in either the public, or our own interest, as essentially they will restrict, rather than enhance the ability of a barrister to operate efficiently and competitively as our self-employed status currently allows.

### **CORPORATE PROCUREMENT VEHICLES**

The deliberate and persistent onslaught upon the self-employed bar by both the Crown Prosecution Service and the Legal Services Commission, through the use of employed higher court or 'in house' advocates, justified by misleading assertions of real cost savings, and no degradation of quality, is slowly but surely destroying the ability of the self-employed bar to survive on such work.

As a set of chambers our policy is to do everything we can to continue to have members at all levels engaged in such work, which is interesting, challenging and rewarding in non-financial terms. It is however increasingly the case, particularly at junior levels, that this work can only be done if other

practise areas are developed to subsidise the publicly funded criminal work. This is not a basis for a long-term future. The Government may get by for a few years with squeezing and abusing the existing 'bank' of skilled self-employed advocates experienced in this work, and by recruiting from it to fill employed positions, but it will soon be gone, together with the training structure a set of predominantly criminal chambers provides.

If block-contracting of publicly funded advice and advocacy in criminal cases is to follow, then the self-employed bar will simply be shut out of that work altogether, unless some form of corporate structure is permitted to enable a chambers, or group of chambers to tender on a block or coverage basis.

Whilst we would obviously prefer not to be in this situation, it is inevitable, having been forced into it by the Government, that we provide a change to the rules that provides a structure whereby self-employed barristers have at least a chance to compete for such work but, as individual providers of advocacy services, to maintain their self-employed status.

## ADDENDUM

The rights of audience now in existence to appear as an advocate at all levels of court in criminal courts have resulted in the very unsatisfactory situation whereby different standards of training and conduct apply depending upon the route or source of the advocacy right. Surely, if this is to continue, there must be one common (and high) standard of competency and ethics code applicable to all those who act as advocates i.e. regulation by function must follow in the public interest.

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On behalf of Hollis Whiteman Chambers.