

BRACE FOR IMPACT

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Nick Green QC issues a warning about the Comprehensive Spending Review

There is something of a phoney war going on at the moment.

The results of the government's Comprehensive Spending Review or CSR will be announced on 20 October and then it will be known how much the MoJ must cut from its budget. At present everyone is assuming a 25% cut off a budget of circa £9 billion which equates to cuts amounting to over £2 billion spread over four years. The main items to be subject to the knife are being widely canvassed in the press and include legal aid, prisons and courts. Examples of particular cuts being mooted are legal aid for judicial reviews for asylum claims, private law aspects of family law, and clinical negligence claims. The Secretary of State has already announced a review of prisons and sentencing and it is certainly correct that there are substantial savings to be made from reducing the prison population (a reduction in the prison population from 85,000 to 80,000 would save over £200 million per annum) but reforms in this area will take some time to feed through into savings and the MoJ needs to convince the Treasury that it can save money sooner rather than later.

The MoJ is publishing consultations on a wide range of reforms to criminal and civil justice and legal aid in the early autumn, and these could well be in the public domain before the CSR results are announced. We should be under no illusions. Deep cuts will be made. The MoJ will be told how much it must save in October and thereafter the debate is about means and not ends. Our task is to assist the government to mitigate the painful effects to the greatest possible degree. But this cannot hide or mask the very real concern that reforms, efficiency savings and the like will not generate enough of the mandated savings and that the residue will simply be extracted from the system regardless of consequences. In these fears we are not alone since even a quick review of the press shows that the same fears are felt by professionals across the board – from education through to health. The Bar Council has a few very difficult years ahead but we will do everything in our power to protect the Bar and the justice system.

The latest LSC tendering process

Amidst all of this many will have seen that the LSC announced the results of its tender process for civil legal aid contracts. This has led, at least following the initial announcements, to about 1,100 solicitors firms losing their contracts. The Bar Council is monitoring this tendering process very closely. We will be assessing the situation to see what lessons are to be learned for the new criminal contracting process which is likely to occur next year.

The debate about drugs

The Bar Council has suggested that another area which warrants a review is drugs policy; there are very substantial savings which can be made here as well and, more importantly, there is a growing body of evidence from both the UK and internationally which suggests that seeking to regulate the drugs problems by means other than criminalisation can promote public health and reduce crime. Comments I made to this effect were – some weeks after their utterance – widely picked up by the press and have subsequently

spawned a considerable volume of media interest. They were endorsed by the outgoing President of the Royal College of Physicians. To be clear, the suggestion the Bar Council has made is that this is an area which cries out for reform and that a wide ranging review is now the rational response to the problem of drug related crime and health problems. We have not set out any particular solution. Following this press coverage my e-mails and post bag filled with comments from all over the world of which about 80 per cent were supportive of the stance taken and 20 per cent critical. Amongst those who were critical were some with very sad stories to tell of family and friends who had died from drug overdoses and related medical conditions. What was striking, however, was that whilst the Chairman's e-mail traffic generally contains a fair number of outlandish and eccentric correspondents, in relation to this particular issue the tone and content was always serious. This is a hugely sensitive issue. It is one where a profession such as the Bar, which has no political axe to grind, can seek to stimulate a more rational debate and this is going to be important in the next few years since if the MoJ is truly to save the money it says it must save then it will need to slay quite a few shibboleths.

The Olympics

Finally, to something lighter. The Bar Council has been asked by the Olympic Organising Committee to put together a *pro bono* panel of members of the Bar, along with solicitors also acting *pro bono*, to be available during the period of the Olympics to act in disputes arising out of the Games. We are at an early stage in planning but we will be circulating the details in early 2011 and seeking applications to join the panels. Selection will occur in the first part of next year. More to follow.