

Rise and shine

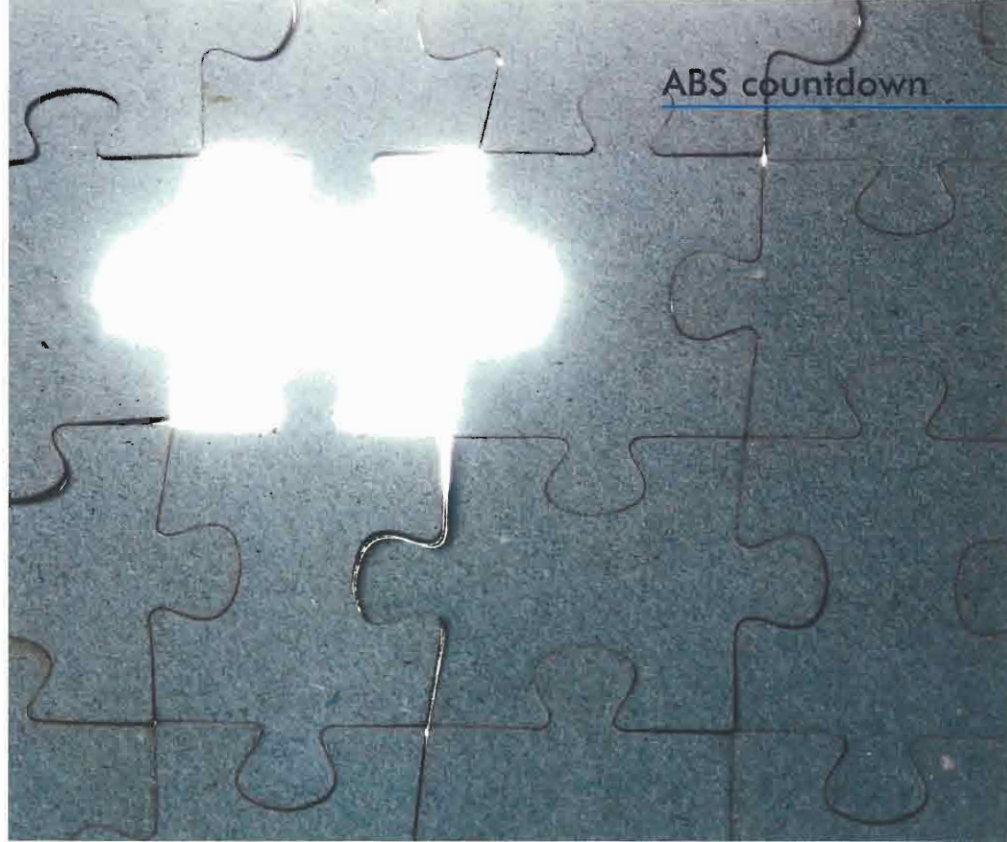
As we edge closer towards the ABS big bang, **Stuart Bushell** uncovers the impact of ILEX

More mature readers will recall a Two Ronnies sketch from the late 1960s which had the Ronnies and John Cleese as representatives of Britain's class system and featured Ronnie Corbett, as the working class representative, saying "I know my place." For many years, legal regulators – in the shape of the Bar, Law Society and ILEX, seemed to have accepted a similar hierarchy. However, one effect of the Legal Services Act has been to throw all this up into the air, and as far as the legal executives are concerned their place in the pecking order may be changing.

ILEX announced last week that the number of candidates for their Level 3 examinations had increased by 40 per cent in 2010 compared with the previous year. This reflects a remarkably successful period for the institute, whose approach to the Legal Services Act has been one of steady and thoughtful progress, in contrast to the Law Society's rather more rollercoaster journey.

Quietly, and almost unnoticed by many, ILEX has made applications to the Legal Services Board which, if approved, would allow its members to perform virtually the same set of reserved legal activities as their solicitor counterparts. The last piece in this particular jigsaw was put in place in November 2010 when ILEX Professional Standards (IPS), the institute's regulatory equivalent of the SRA, announced its intention to apply for permission to undertake conveyancing work without supervision from a solicitor or barrister. This followed similar applications for probate rights, litigation services and advocacy.

It is unlikely that ILEX will be in a position to progress from its current status as an approved regulator under the Legal Services Board in time for the big bang for ABS on 6 October this year, and it will probably be 2012 before it can become a licensing authority.



However, legal executives have already made a significant impact on the profession through their inclusion in the legal disciplinary practices (LDPs) which have been set up since early 2009 under SRA regulation. There are now over 340 LDPs, all with non-solicitor managers. Of the non-solicitor lawyers involved, over 100 are legal executives, more than two thirds of the total. Last year also saw the appointment of the first ILEX member to become a judge when Ian Ashley-Smith became a deputy district judge.

ILEX seems to have avoided some of the internecine conflicts which have dogged the solicitors' body, arising out of the structural anomaly whereby the SRA is simply a trading name of the Law Society. IPS, by contrast, was created as a separate limited company and appears to coexist in relative harmony with ILEX's representative arm.

Threat or alternative?

Should solicitors be worried about the rise of ILEX? Yes and no. On the one hand, there is no shortage of candidates wanting to be solicitors – the numbers holding practising certificates grew from 112,000 to 120,000 last year and this trend shows no sign of slowing. So solicitors are not exactly going out of fashion. On the other hand, qualifying as a solicitor is still a difficult and expensive way of practising law.

Those looking at the ILEX route are attracted by the fact that a degree is not needed, with candidates earning money as they learn and take examinations. The difference that the Legal Services Act and other recent changes have made is that there is no longer a ceiling on what can be achieved once

"There is no longer a ceiling on what can be achieved once the ILEX qualification is gained"

the ILEX qualification is gained. It is now entirely possible to be a partner in a solicitors' firm, or a judge, or, after 6 October, to own a law firm.

ILEX does not see itself as a threat to the Law Society, but rather as an alternative. When David Clementi wrote the report which led to the Legal Services Act it was often thought that what he really wanted to do was recommend the fusion of the legal professions. He realised that this was politically unachievable so his recommendations were a little more subtle. Consequently, what the Act does do is to promote the notion of 'lawyers' rather than 'solicitors' or others.

But herein lies the rub. Most consumers do not differentiate between the terms 'solicitor' and 'lawyer', and to the extent that ILEX members can trade as lawyers competition is bound to arise. It might even be suggested in hushed tones that the lawyer brand might have greater customer appeal than the solicitor brand.

Stuart Bushell is legal affairs director of Solicitors Independent Financial Advice (SIFA) and was previously the Law Society's director responsible for Legal Services Act transition