



Young Legal Aid Lawyers
C/O Philcox Gray & Co
73-75 Newington Causeway
London SE1 6BD
www.younglegalaidlawyers.org
ylalinfo@googlemail.com

Tim Pearce
Education and Training Unit
Solicitors Regulation Authority
By email: trainingconsultations@sra.org.uk

10 May 2012

Dear Mr Pearce

This is the response of the Young Legal Aid Lawyers (YLAL) to the Solicitors Regulation Authority (SRA) Economic and Equality Impact Assessment produced as part of the review of the trainee minimum salary. This response has been drafted as a brief addendum to YLAL's response to the consultation submitted 9 April 2012 and should be read in conjunction with that document.

About YLAL

YLAL is a group of junior lawyers who are committed to practising in those areas of law, both criminal and civil, that have traditionally been publicly funded. YLAL members include students, paralegals, trainee solicitors, pupil barristers and qualified junior lawyers based throughout England and Wales. Currently, we have around 1,700 members.

Our concerns

We have set out our concerns over the removal of the minimum salary in detail in our response of 9 April 2012. In summary, based on the experience of our members, we are opposed to the abolition of the trainee minimum salary on the basis that it provides an important safeguard that protects against exploitation and contributes to social mobility and diversity within the legal profession. The data within the Economic and Equality Impact Assessment (EEIA) has reinforced these concerns. Therefore we reiterate our opposition to the abolition of the minimum salary.

We explore our concerns below, in the context of the findings from the EEIA, under the headings (1) diversity; (2) impact on those from less affluent backgrounds; (3) reduction in salaries; (4) the impact on the legal aid sector; and (5) impact on training contracts.

Before doing so we wish to raise two issues relating to the EEIA itself:

- Firstly, we are concerned about the reliability of the statistics within the EEIA. A number of questions asked individuals to predict future behaviour based on a set of hypothetical conditions. We are unconvinced of the statistical value of the answers to such questions.
- Secondly, the EEIA does not seem to have taken account of the views of younger individuals, e.g. school leavers, who are not yet at the University or trainee stage. Given that a principal concern over the abolition of the minimum salary is that it will close off the profession to younger people from less affluent backgrounds we are surprised that the views of this group seem to have been overlooked.

(1) Diversity:

In our response to the consultation we expressed the view that:

“...it is important for the legal profession to represent the community it serves. It can only be good for the profession (and society as a whole) to include solicitors from a full range of backgrounds. It is important to recognise that a diverse profession means that there should be male and female lawyers, people of different ethnicities and cultural backgrounds, people with disabilities as well as people from different socio-economic groups.”

The EEIA reinforces our view that the removal of the minimum salary would undermine diversity in the profession.

“Trainees with certain characteristics are more likely to be paid at, or close to, the minimum training salary. This includes BME groups, women, people working outside of central London and those who attended state schools. Any impact on salary levels resulting from removing regulation in this area would have a disproportionate impact on these groups.” (p21)

Following the SRA survey it is also stated that 60% of trainees who took part in the EEIA felt that the removal of the minimum salary would impact on diversity (p45).

(2) Impact on those from less affluent backgrounds:

We said -

“We believe it is vital that the profession is open to all, no matter what an individual’s financial circumstances might be. The minimum salary plays an integral role in ensuring that there is equality of opportunity. This has wider consequences both for clients and for society as a whole... We believe that [should the minimum salary be removed] it is very likely that people from less wealthy backgrounds will be discouraged from pursuing a career as a solicitor.”

The EEIA confirms that –

- 77% of trainees who took part in the EEIA felt that the removal of the minimum salary would discourage individuals from less wealthy backgrounds (p45).
- 80% of students, paralegals and others considering becoming a solicitor took the same view (p49).
- “Students, paralegals and others considering training as a solicitor who were former pupils of state schools were more likely to state that removal of the minimum salary would prevent them from being able to train.” (p57)

(3) Reduction in salaries:

We said -

“Within the legal aid sector we believe [a reduction in salaries] is a significant risk. Many firms and legal organisations who conduct legal aid work are already at the margins of financial viability, as set out in a report published by Otterburn Legal Consulting for the Law Society in 2011¹... Against this background, it is clear that if firms and organisations are able to reduce costs to try to ensure a continuing service to individuals, they will do this.”

The EEIA said -

“Where additional TCs [training contracts] are offered, the majority of these are likely to be paid below the current minimum level.” (p6)

¹“Impact of the MOJ Green Paper proposals on legal aid firms” Otterburn Legal Consulting, February 2011
<http://www.otterburn.co.uk/legalaidreport.pdf>

“Of the firms stating [in the survey] that they would seriously consider starting to offer TCs, 69% stated that they would pay less than £16,650 as a trainee starting salary” (p29)

(4) Impact on the legal aid sector:

We said –

“In relation to the legal aid sector, the removal or severe reduction of the minimum salary could see a decrease in the number of people entering or drawn to legal aid work....A drop in the number of solicitors willing to work in these crucial areas of law for the very poorest in society would be detrimental to the public interest.”

The EEIA confirmed that in relation to the “tier” of the legal market that offers salaries at the minimum or slightly above -

“[t]his tier of the market employs around 42% of trainees and is more likely to be influenced by the removal of the minimum training salary level. Firms in this market tend to be smaller and only train a few people at a time.” (p21)

The EEIA also suggests that further research is needed to fully understand the potential impact on smaller firms because the number of responses from this “tier” was relatively small (footnote on page 55).

(5) Impact on training contracts:

We said –

“In our view the removal of the minimum salary is an entirely unacceptable method to encourage employers to take on trainees. The detrimental effect that this would have on social mobility is disproportionate to any conceivable benefits... In any event, in the legal aid sector, we consider it unlikely that more training contacts will be offered.”

The EEIA said –

“Any impact which increases the supply of TCs is likely to be modest as most firms take into account many more factors than just the minimum salary when making decisions about how many trainees to take on and what to pay them.” (p6)

“[Survey r]esponses from... two thirds [of firms] indicated that a change in regulation

would have no impact on the number of TCs they provide. This suggests that even amongst firms that tend to pay lower salaries to trainees, removing the minimum level would only have a modest impact on the supply of TCs.” (p6)

Conclusion

For the reasons set out in our consultation response of 9 April 2012 we strongly oppose the removal of the trainee minimum salary. We believe that it would constitute a retrograde step undermining social mobility and diversity within the legal profession. This would run counter to the public interest. The SRA’s own EEIA justifies our concerns. Therefore we urge the SRA to abandon the proposal or at the very least delay making a decision on this issue until the LETR publishes its recommendations.

Yours sincerely,

Katie Brown & Connor Johnston

Co-Chairs YLAL