

■ An ABS application: one firm's experience

Peter Scott

In an interview, Ann Harrison, chair of the law firm Stephenson's, describes the firm's experience of applying to become an alternative business practice (ABS)

In a recent report appearing in the Law Society's *Gazette* ([2011] 25 October 2012), the chief executive of the Solicitors Regulation Authority (SRA), Antony Townsend, speaking at a Westminster Legal Policy Forum, said the aim of the SRA application process in relation to ABSs was not to tie applicants 'up in knots'. He added that: 'We've designed our system so that in practice we apply the same risk analysis to ABSs and traditional firms. We apply a very vigorous application authorisation process to ABSs which arguably puts them at a disadvantage.'

Those comments prompted me to ask Ann Harrison, the chair of 120-lawyer firm Stephenson's, which has recently received approval from the SRA for an ABS licence, for her thoughts on how the application process had worked in her firm's case and to explain to me the steps which her firm took to pursue its application for an ABS licence.

I began by asking Ann why Stephenson's decided to set up an ABS.

AH: 'We have a very structured and open partnership process so that everyone in the firm knows the criteria that people need to meet in order to sit at the partnership table. We also have a very strong infrastructure with some excellent support service managers, some of whom we consider will add strength and new ideas to the partnership. Accordingly, for Stephenson's, it seemed like a natural next step to apply for an ABS licence to enable some of our existing support service managers to come to the partnership table on equal footing with their solicitor counterparts.'

For aspiring ABSs the process can at first sight appear daunting. Ann explained how she approached making the application.

AH: 'You have to start somewhere and I read and read and read! I waded through everything that the SRA had written on the subject until I felt I had a grasp of what was necessary. I also at the outset spoke to the SRA because we were part of their relationship manager pilot before OFR was implemented. Once the pilot scheme ended we kept our relationship manager who was very helpful in helping us to initially liaise with the ABS team at the SRA and our first meeting with them was useful in clarifying some of the issues for us.'

Clearly, an ABS application will need to be 'people resourced' and I asked Ann about the team she put together from within her firm and how the team then went about researching the process of applying to become an ABS.

AH: 'We worked as a team, which consisted of me, my PA and our risk manager; it did help that our risk manager was ex-SRA and he knows his way around the legislation. The starting point was to download the forms and between the three of us we were able to complete all of them and collate all of the necessary documentation. It took us about one week to complete the forms, and since then at each stage we have had to spend quite a few

hours responding to the next stage of the application. The greatest demand on our time was in relation to the reading into the subject beforehand.'

I particularly wanted to know from Ann about what assistance had been given at the outset by the SRA to move the application along and whether the SRA had provided Stephenson's with any kind of 'roadmap' to guide the firm through the application.

The aim of the application process was not to tie applicants 'up in knots'

AH: 'To be honest, once we got our heads around the documentation it wasn't too bad; we could see what we needed to complete and so we just put it all together. However, the ABS guidance notes from the SRA website are quite helpful. Initially, we had one point of contact, but once we had completed and submitted the forms we felt we were a bit lost in the process. Everything was sent to a generic email address and we weren't really given any idea of likely timescales. As a result we ended up chasing quite a lot to try to find out what stage our application had reached.'

I then turned to the issue of the information which was required from Ann's firm and how relevant it is to an applicant such as Stephenson's which, like many of the other existing law firm ABS applicants (which apparently make up the majority), was seeking ABS status to bring in 'non-lawyer individuals as partners' by way of internal promotions, as opposed to seeking to establish a new wholly non-lawyer-owned law firm. In particular, I asked her whether she had found a one-size-fits-all approach in relation to the information required in support of the application or whether there was some flexibility according to the status of the applicant and nature of what the application is seeking to achieve.

AH: 'We felt that, although the information we were asked for was for the most part relevant to our application, it did seem that some of the information we were required to provide was possibly more aimed at an application by a new wholly non-solicitor entity. This was, I suppose, understandable given that the application process has been very much designed around applications from non-lawyer applicants who are setting up as a new regulated body. Accordingly, at the time we made our application (March 2012), there appeared to be little or no flexibility in the process, particularly in relation to the nature of the information required.'

The SRA perhaps didn't appreciate that most applications would most likely be from existing firms just wanting to take advantage of the new rules, to share their equity with non-lawyer

colleagues. Since many of the ABS licences issued so far have been to law firms doing what we are also seeking to achieve, i.e. internally bringing in non-lawyer individuals already in the firm as "partners", perhaps this should have initially been more anticipated, and the application process changed to either allow a "bye" in such cases (other than of course the suitability test for the proposed non-lawyer individual), or some other more simplified process. However, I understand that this issue has been now recognised and, according to Anthony Townsend, speaking at the Westminster Legal Policy Forum which I attended in October, the SRA is now responding to this by moving to a more streamlined and simplified system for applications which are like ours, which should hopefully speed up the process for similar applicants in the future.'

I then asked Ann how efficient she had found the application process. She felt that the administrative side of things could sometimes have worked better and that there could perhaps be some room for improvement in certain areas. For example, she explained that:

AH: 'There were occasions when we thought we had sent in the forms but were then told that we had not! One notable example of a misunderstanding which then led to confusion arose because we had to complete three suitability tests for, respectively, our COLP [compliance officer for legal practice], our COFA [compliance officer for finance and administration] and a new non-lawyer manager all at the same time. The forms to be completed for the suitability test have to be hard copies, but we were only sent two hard copies. Our solution (which we thought was the logical thing to do) was to photocopy one of them so that we then had three hard copies. However, that was the wrong thing to do because the photocopied form was the wrong version and was rejected. Sorting that out took quite a time.'

On the odd occasion when I thought the process had ground to a halt and we had become "stuck", I went to our relationship manager who has been very helpful in finding out if and where there was a "blockage" and then assisting us to sort out matters. Also, as I have said earlier, the ABS team at the SRA was very helpful in the pre-application stages.'

I was also interested to know whether Ann considered any specific advisers (whether internal or external) had been required to assist her firm in relation to its application.

AH: 'It has been a tremendous help having our own risk manager who was ex-SRA. His presence took away much of the "fear factor" because he has not been afraid to stand his ground on certain issues and argue with the SRA if necessary. It has also helped that we have an excellent finance director who produces very clear and timely financial information which we were able to use for our application. If an applicant does not have its own inhouse people such as these, then it is likely to benefit a great deal from working with at least a good risk consultant who understands the rules and a financial adviser who can provide accurate and good quality financial information.'

Finally, I asked Ann, based on her own experience of successfully making an application for an ABS licence, if there was one particular piece of advice that she would give to anyone contemplating making an application to become an ABS and whether, if she were starting out again on the process, there would be anything which she would now do differently.

AH: 'Sort out which forms you need to complete and just make a start on them. If you don't have an inhouse risk person then, as I have already emphasised, it is probably worthwhile working with an external consultant who is familiar with the process.'

Also make sure you have complete copies of everything you submit so that when it is said that you have not sent something you at least have a copy so you can submit it again!'

Before ending the interview I raised with Ann one further issue which was prompted by her responses to my questions. I asked her whether she had been asked by the SRA following completion of the application process to provide it with feedback on how the process had been managed (as all organisations tend to learn something from feedback from their 'stakeholders')? If not, then did she consider this was something which the SRA might consider doing to improve the process?

AH: 'We haven't been asked for any feedback at all on the process. It ought to be useful to the SRA to take feedback, as most organisations do these days. Having said this, I think that the SRA is well aware of the criticisms levelled at the process. Indeed, that is probably the reason behind the proposals to make changes to speed up the process.'

Peter Scott runs his own consulting practice, Peter Scott Consulting.