SUBMISSION FROM LEGAL SPARK

About Legal Spark

Our Director, Daniel Donaldson is a Scottish Solicitor and qualified at the height of the recession in 2010. He was acutely aware of the difficulties that many people faced in accessing affordable legal advice.

One observation made, was that as many as fifty percent of enquiries for legal advice were turned down on grounds of economic viability.

Additionally, the growing pressures on public expenditure meant that civil legal aid was scarce. He also noted that the legal aid system as a whole lacked innovation to accommodate the majority of legal needs.

Daniel established Legal Spark against this basis. We are an innovative and ethical legal practice promoting social responsibility. We do this in many ways, but at the moment, the profits of our commercial or private work are reinvested to help people by:

- Organising and taking part in outreach work in communities
- Providing legal advice and representation for disabled people
- Maintaining a commitment to legal aid work

We are also working towards developing a social legal hub, where solicitors and others can cooperate or collaborate to provide legal services in areas of unmet legal need. However, this project is still being designed.

Problems we have encountered

We are a unique legal practice, and our business model is also new. However, we encountered a number of challenges along our social entrepreneurial journey.

1. Legal regulation

   The legal profession is governed by a series of professional standards that are outdated and do not accommodate innovation. This trend percolates throughout the entire legal regulatory structure, from the Law Society of Scotland and their policies and procedures, to the statutory framework under the Solicitors (Scotland) Act.

   Furthermore, attempts at modernisation or improvement have been stalled. Colleagues may note that the Scottish Parliament passed the Legal Services (Scotland) Act 2010 but the rules regarding alternative legal business structures have not been implemented.

   We had hoped to establish a cooperative business model, involving employees in ownership, communities owning their own legal services, or working in partnerships with other established organisations to provide legal
services to promote access to justice. This has not been possible because of the current regulatory framework.

2. Poor support and bad advice

Our Director was successful in winning the Scottish Institute for Enterprise’s Young Innovators Challenge 2015 and he used that small amount of prize money to found Legal Spark. However, when applying for other sources of funding or seeking third party support from within the social enterprise sector we encountered resistance and a lack of understanding.

Many of the organisations which are funded by the Scottish Government to support social entrepreneurship operate on a very exclusive basis. They have adopted a narrow selection criteria based on what is known as “the voluntary code of practice for social enterprise in Scotland”.

This code seeks to pigeon hole social entrepreneurs into a traditional business model whereby you establish an organization with social aims, with an asset lock and no shareholdings. However, this code is in effect not voluntary, as the majority of organisations that provide support for social entrepreneurs and also provide funding to social enterprise adopt it as criteria for that support or that funding.

As a result, social innovation suffers.

The code does not allow social businesses to operate shareholding, this restricts social businesses in terms of the investment they can achieve, because normally investors will look for some return, even if it is a token return, for their investment.

The code has also been refined recently to exclude community interest companies and cooperatives from membership.

Similarly, the code restricts social businesses from making profits and actively encourages a culture of grant dependency. There is nothing bad with making a profit and using that profit for a social purpose. Indeed, some social entrepreneurs will have personally invested in their social businesses and should be entitled to flexibility in how they earn a return on that investment.

It is unhealthy to promote a culture of grant dependency. This is really important where money from the public purse is tight and core services such as the NHS must be sustained. Furthermore, the whole purpose of social businesses is that they are meant to be financially viable on their own and should not have to rely on government hand outs.

A final observation here is that there is no quality control over the advice and support offered to social enterprises. We have encountered a range of experience across the board, and on some occasions had to speak against advice because it was so poor.
One such area concerns the statutory responsibilities of company directors under the Companies Act 2006. Many of the support organisations disregard this important legislative framework. Likewise, important compliance aspects of doing business such as data protection, the Equalities Act 2010 and complaint handling are also disregarded.

**Positive Experiences**

We have received positive feedback from other new social entrepreneurs and also within the private sector.

Our Director received excellent encouragement from the Scottish Institute for Enterprise (SIE) and their Young Innovators Challenge award. If it were not for SIE and the young innovators challenge, Legal Spark would not have got off the ground.

We are generating our own income from fee revenue, and are now working with (Chartered Institute of Personnel and development) CIPD Scotland on a programme to help build our internal policies and procedures.

This sort of partnership work should be encouraged to promote innovation and we hope to develop further collaborative arrangements going forward with our business.

**Recommendations for the future**

1. It is important for us that regulators such as the Law Society of Scotland and the Scottish Legal Aid Board are able to support new business ideas and ways of working. There is no culture of innovation here and this must be developed and encouraged.

2. We need to bring forward alternative business structures for legal businesses in Scotland to encourage more social innovation, employee ownership, cooperative or partnership working.

3. There needs to be reform of public funding of established organisations, to ensure that they include and not exclude new and innovative social business models.

4. The social sector places too much reliance on the code of practice to determine who is, and who is not, a social business. This approach is inflexible and exclusive and where support services or grant funding is concerned, the code should not form part of any eligibility criteria.

5. It is important to recognise that profit can be a good thing and also note that profits with social purpose are to be encouraged. This is particularly important when it comes to attracting investment and maintaining business growth and development.

6. There should be a re-evaluation of the quality of support services available that support social enterprise. Public bodies that fund social enterprise support networks, or employ social enterprise advisers should ensure the people employed are qualified for their role, that the advice given is consistent
with the law. Public bodies must actively ensure that no one is excluded from participation or involvement because the organization that has been funded exclusively follows the aforementioned voluntary code of practice.

If you require further information, please visit our website www.legalspark.co.uk or contact us by email: contact@legalspark.co.uk

We are happy to provide more evidence if required.

Yours faithfully

Daniel Donaldson

Director – Solicitor and Notary Public

For and on behalf of Legal Spark Law Centre Ltd