The debate following the Court of Appeal judgment in CAM Legal Services v Belsner has highlighted the need to overhaul the outdated distinction between contentious and non-contentious legal services, as currently defined within the Solicitors Act 1974. The distinction no longer serves any useful practical purpose. The existing provisions were introduced long before dispute resolution embraced new practices, such as pre-action protocols, portals, fixed costs regimes and CFAs and DBAs. With digitisation, the lines will be blurred even further. However, the necessary reforms must produce clear definitions of what constitutes each type of business (only to be applied prospectively) and care must be taken to avoid the risk of satellite litigation through unintended consequences.

It would appear sensible for all business to be classified as contentious from the moment that a letter of claim (or the electronic equivalent) is sent by a claimant to a defendant.

At the heart of any reforms must be consumer protection, ensuring that there is full transparency as to the circumstances in which a solicitor may be entitled to recover costs from a client, either by way of deduction from damages or a solicitor/client charge; and to ensure that any costs recoverable are fair and proportionate in relation to the issues in dispute.