

Corporate Strategy 2017- 2020: Response document

November 2017

Contents

Responses

Aileen Francis

Arthur Michael Robinsona

Association of Women Solicitors, London

Bristol Law Society

Cambridgeshire & District Law Society

Cardiff & District Law Society

David Ofosu-Appiah

Devon & Somerset Law Society

Jonathon Bray Legal Services Limited

LegalBeagles

Legal Ombudsman

Legal Services Consumer Panel

Liverpool Law Society Regulatory Committee

Manchester Law Society

Peninsula

Riverview Law

The City of London Law Society

The Law Society

Welsh Government

Anonymous responses

Anon – 1

Responses not published

Anon -2

2. Your identity

Surname

Francis

Forename(s)

Aileen

**Please identify the capacity in which you are submitting a response. I am submitting a response...
on my own behalf as a solicitor in private practice**

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

It would be helpful to have more clarification on the different routes and costs to becoming a solicitor and where and who may provide the training for both employer and employee/prospective employee.

2. What should be our key priorities over the next three years?

Preventing security risks/cyber crime/fraud and protecting firms and protection of clients and firms with regard to this.

3. Do you have any comments on our proposed programme of work?

Is it flexible enough to respond/adapt to changes when needed

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

Strategic aim one

5. What have we missed?

Make sure regulatory requirements do not conflict with Data Protection issues

2. Your identity

Surname

Robinsona

Forename(s)

Arthur Michael

Please identify the capacity in which you are submitting a response. I am submitting a response... on my own behalf as a solicitor in private practice

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

I think the language now used does not help. You refer to market and customers only because this type of business speak has become common currency. Just as there is no such thing as a national housing market there is little use in talking about a legal services market. Instead you should be connecting types of legal work with localities, districts, conurbations and regions to assess what the legal needs are and how best those needs can be met and how those people who meet the needs should be controlled.

2. What should be our key priorities over the next three years?

To be independent of Government and to challenge Government strategy and thinking. If, of instance, you establish that legal aid policy is a barrier to accessing justice then you should say so. Ignoring the issue on the basis that it is Government policy whilst pursuing a Government policy of improving competitiveness in the "legal services market" is hypocritical and short-term. What do you do next when the Government Shane's and policy changes?

The CMA commissioned research which is very flimsy and not detailed enough to justify wholesale changes in how firms and solicitors are regulated. You should demand better evidence.

You should focus on enforcement. Fear of being caught and punished assures compliance. No one fears the SRA. You should use local law societies as enforcers.

3. Do you have any comments on our proposed programme of work?

It is misguided. It does not reflect what the public needs or what solicitors expect of its regulator.

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

By allowing solicitors to work for unregulated entities you put at risk the public and the profession. A distinction should be maintained. You have only reached this position because you don't combat the LSB's rhetoric and address the real issues surrounding access to justice.

I do not believe for one minute that a person with a legal issue who really wishes to deal with that issue can not find advice or guidance for free if they do not wish to pay. However those people who don't know and might seek help are a concern. Small business owners can obtain advice on all relevant business issues online or through a Chamber of Commerce or through a "trade association". The fact that a few-a very few-may have given up says more about them than the profession.

I fear the greatest impact of your strategy will be a fragmentation off legal advice, advice deserts will grow and people will be disillusioned as they deal with the unregulated sector more and more.

You publish Risk assessments. Your own strategy should be number 1 on the risk factors.

5. What have we missed?

The fact that you are being manipulated by Government to disguise the gas and failings in its access to justice policies.



Association of Women Solicitors

Essential for Success

ASSOCIATION OF WOMEN SOLICITORS, LONDON

Response to SRA Consultation: Corporate Strategy 2017-2020

About Association of Women Solicitors, London

Association of Women Solicitors, London was founded in 1992 and celebrates its 25th anniversary in 2017. Aims include representing, supporting and developing the interests of women solicitors. Membership is open to all women solicitors and trainees and associate membership to other women lawyers including barristers, legal executives and paralegals.

For more information see our website <http://www.awslondon.co.uk>

Response

The main workplace issues for women solicitors are pay disparity, lack of opportunity for flexible working, under representation at the top (particularly in private practice), bullying, abuse of maternity entitlements and sexual harassment.

We answer the questions therefore from that perspective.

It is recited on page 4 that diversity in law firms is improving but there is still much more for the profession to do. In addition, the Chair, in the foreword on page 2, notes that the SRA "must work to drive forward increasing diversity within the profession". There is, however, no Strategic Aim specifically on Diversity and we are disappointed to note this.

We note on page 6 that the SRA oversees professional education and training but we have in the past been concerned about this being a "box ticking" exercise. We are also concerned about the oversupply of LPC graduates, the majority of whom are female. That said we have in a previous Response indicated support for the new SQE route to qualification subject to the internships being advertised.

We share concerns expressed by others about how widening of access will be achieved alongside the reductions in public funding. Although the SRA cannot prevent public funding reductions, we would welcome a pro-active and collaborative approach from our regulator as to how legal service providers may develop new provision, without reducing service standards.

We obviously endorse the commitments on improving diversity, ensuring equality of opportunity and working with the profession to improve diversity by continued collection of data. We would, however, have liked to see more on how you then propose to use that information. We have given suggestions in previous Responses.

We therefore look forward to responding to the "Enforcement Strategy" on the new Code as currently it is unclear how the Code will be monitored and applied to individual solicitors, particularly those in unregulated organisations.

We would also wish to ensure that solicitors are indeed clear about how they are regulated in non-regulated firms. We have already expressed concern that those recruited as sole solicitors in unregulated firms will be “the cheapest” i.e. returners and junior solicitors and therefore more likely to be female. The proposed arrangement will be very different to the existing “in house” role.

We also await the Consultation on how access to information shall be improved and what info is required from firms to then be provided to the public by the SRA.

We are due to meet with you again over the forthcoming autumn and look forward to working with you on the above issues.

AWS London
September 2017



SQE Consultation
Regulation and Education
The Cube
199 Wharfside Street
BIRMINGHAM
B1 1RN

BY EMAIL ONLY: consultation@sra.org.uk

21 September 2017

Dear Sirs

Response to SRA Consultation on Corporate Strategy 2017 - 2020

General Comments

Bristol Law Society ('BLS') views the SRA's strategic aims as generally positive but has some concerns over how these aims will be implemented in practice (whilst also taking into account and applying the regulatory objectives set out in the Legal Services Act 2007).

It is a challenging time for the profession when you consider the current uncertainties around Brexit and the introduction of the General Data Protection Regulations (GDPR). BLS is concerned that the pace of regulatory change could add further uncertainty which, taken together, is likely to have a negative impact on both the profession and their ability to deliver the requisite high standards of service for their clients.

In recent years, there have also been, and continues to be rapid technological developments which, coupled with client and market-driven pressures to reform, are changing both the way in which the profession delivers services and the expectations of clients. The SRA, as the profession's regulator has an important role to play in helping the profession in these areas. BLS considers that it is important that the SRA ensures that the firms can be flexible in their approach to dealing with this change without compromising client service levels.

As firms endeavour to retain the highest client service levels, by adjusting their working practices and implementing new requirements on the back of rapid and far reaching regulatory change there is a very real risk that this will result in an economic impact for firms. Any further regulatory changes should be considered as part of the wider, cumulative impact of all the changes which the profession is currently facing.

Specific comments linked to each strategic aim

Strategic Aim 1: We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future

1. The profession must set consistently high standards in order to retain credibility. However, the regulatory role of the SRA (through the rules which they set for the profession) merely ensures high **minimum** standards which, on its own is not enough.

2. BLS are concerned that any changes to the Handbook must ensure that the rules are clear, transparent, unambiguous and also that any subjectivity within the rules is kept to a minimum.
3. BLS is not opposed to a simplification of the Handbook in principle. However, they are concerned that the proposed over-simplification will not, on its own, allow the profession to maintain the desired high (minimum) standards without further guidance being available to ensure that the behaviours required to meet those standards are fully understood by the profession. It is important that all members of the profession seek to maintain the same, consistently high standards at all times. BLS is not certain that the proposed Handbook reforms will achieve this.
4. The implementation of the Solicitors' Qualifying Exam (SQE) will be important in seeking to maintain consistently high profession standards. However, BLS is unclear how this will be achieved at present without further information being made available. It is not currently clear how both firms and educational establishments involved in delivering and signing off the SQE will be monitored/held to account and BLS has some concerns around this aspect (dealt with later).

Strategic Aim 2: We will make sure our regulatory requirements are proportionate, providing solicitors and firms the flexibility to innovate and better meet the needs of the public and businesses, while maintaining appropriate levels of public protection.

5. Public protection is of paramount importance and, whilst innovation and flexibility is desirable it must not be achieved at the expense of public protection. BLS consider that some of the SRA's recent initiatives have focused more on the desire to deregulate and not on ensuring client protection. Client protections (e.g. professional indemnity insurance, legal professional privilege, conflicts rules and access to the Compensation Fund) must not be ignored or eroded simply to ensure greater flexibility.
6. The SRA must not continue on a path of 'change for changes sake' and must always consider first (internally), before proposing any further regulatory change whether there is in fact a need for that change, i.e. a problem which needs fixing. Once it has been established that change is required, careful consideration should be applied regarding whether or not the proposed solution will mitigate/resolve this problem balanced against the likely cost/impact on firms to implement that change.
7. Further factors that should be considered include 'risk v cost', (both for firms and their clients); how the change sits with other changes and the cumulative impact likely to be felt; how will this all be communicated to the profession clearly and in sufficient detail so that solicitors are confident that the proposed change is for the good of the profession and their clients. There must always be a robust evidence base for regulatory changes, (the SRA could use a template similar to that produced by the Better Regulation Executive to evaluate each proposed change).
8. BLS and its members champion innovation in the legal sector. We would, however, respectfully point out that innovation is the result of using evidence and insight to create positive change more easily than was previously possible. This goes back to our comments above regarding the need to first assess where something isn't working, then evaluate the proposed solution to see whether it is fit for purpose taking all relevant factors into account.

9. BLS wholeheartedly agrees that the pursuit of innovation is desirable in order to be more competitive whilst better providing for your clients. However, this is very different from allowing crucial client protections to be discarded and/or eroded and calling that 'innovation'. The former approach, if transparently and fairly applied across the sector, can benefit both the profession and clients. The latter approach is likely to result in client confusion and trust in the profession being eroded.

Strategic Aim 3: We will increase the availability of relevant and timely information to help people make informed choices in the legal services market.

10. BLS supports this aim as clients and prospective clients must always be entitled to and can obtain the best quality information so that they can make informed decisions. Market-led solutions are the most proportionate way to address this particular issue. Any regulation in this area must be flexible enough to ensure that all client's needs can be effectively met.
11. It is also important to the profession and BLS members that the right information can be provided to clients in a timely manner as clients rightly expect this level service. Before any regulation of this area is introduced, BLS consider that robust consumer research should be utilised to understand what information clients value, how they search for it, and to establish how much information is too much?

Strategic Aim 4: We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU.

12. BLS is pleased to note that the SRA is promoting the benefits of the current cross-border arrangements. The current EU lawyers' framework has proved to be successful and BLS support the continuation of this framework.
13. With many more changes to come in this area, BLS hopes that the SRA will engage openly and in a timely manner with the profession e.g. through detailed consultations.

Strategic Aim 5: We will work better together and with others to improve our overall effectiveness, our responsiveness, and the delivery of our regulatory functions

14. We support any work that will result in improvements to the effectiveness, responsiveness and delivery of SRA regulatory functions.
15. We note that the SRA plans to make improvements in this area through the new Enforcement Strategy, and guidance and training for decision makers. BLS would welcome further details on this proposal as soon as possible so that we can engage with and inform our members accordingly.
16. It might be prudent to revisit the SRA KPIs to assist this process. Swift decisions/responses to queries/applications should not be the only measure of success as currently appears to be the focus. The focus should, in the view of BLS be the quality and consistency of these responses/decisions.

Final thought

17. BLS is concerned whether the SQE will do enough, or indeed anything to encourage an independent, strong, diverse and effective legal profession as set out in the Legal Services Act 2007 as a key regulatory objective. This needs to be addressed and only currently seems to be by the advent of legal apprenticeships and not necessarily by the proposed regulatory changes.
18. It is of paramount importance that the profession and its regulating body work together to ensure we remain a well-regarded and valued part of society by all. In order to achieve this there must be transparency, consistency and good lines of communication on all levels at all times. At times (for example on the proposal to allow solicitors to deliver non-reserved services in unregulated entities) our members have felt that their views and evidence have been dismissed by the SRA . We would also ask that the SRA make its decision-making processes as transparent as is possible in order to engender trust.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Becky Moyce', is written over a light grey rectangular background.

Becky Moyce
President

Cambridgeshire & District Law Society

Strategic aim one – consistently high professional standards

1. The proposal to remove the ‘degree (or equivalent)’ requirement for new solicitors introduces doubt. How can “time served” be an acceptable substitute? The candidate either has the capability to analyse, collate, present etc or not. The degree is a means of testing for these abilities.
2. The proposed changes to the Code threaten the professional standards they are trying to uphold:
 - a. There will be reduced redress for consumers from unregulated entities via LeO;
 - b. There will be reduced redress for consumers from unregulated entities as there will be no requirement for PII or access to the compensation fund;
 - c. There will be confusion for consumers as a result of the need to choose between regulated and unregulated entities

Strategic aim two - flexibility and innovation to better meet the needs of members of the public and businesses

1. The SRA are unrealistic in the ‘saving’ that removing the PI insurance requirements will have. It is axiomatic that if they want a profession that is well qualified and able, there is a cost to that requirement. Simply removing PII will not significantly reduce that cost but will remove the ‘safety net’ for clients. It is a significant cost (for solicitors, it falls behind the wages and buildings costs but probably sits above everything else) but on a % of turnover it is somewhere around 2%.
2. One has to query the basis for the SRA’s survey, the sample size and what the ‘legal redress’ is that these individuals were seeking and yet did not approach solicitors. There are other forms of legal advice out there!
3. The SRA has made reference again and again to an “unmet need” but has shown no evidence to support this assertion. Why make changes to meet a need which probably does not even exist?
4. The changes will adversely affect legal professional privilege – a key concept in the rule of law.

Strategic aim three – increase the availability of relevant and timely information to help people make informed choices etc

1. This need is arguably only created by the confusion the SRA are about to create by introducing the new code, with solicitors practising within and outside of regulated firms which will affect the insurance and availability of the compensation fund!

2. Your identity

Surname

Thomas

Forename(s)

Clive

Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a local law society

Please enter the name of the society.: Cardiff & District Law Society

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

The consultation document correctly points out that this is a time of huge change within the profession in terms of both the way in which legal services are delivered with a backdrop of Brexit. The profession and the public require as much confidence in the system as possible - this will help to nurture growth in the profession by investing in innovation and new technology and allow the public to trust and engage in new methods of delivering legal services.

We believe in a time of such uncertainty wholesale regulatory framework changes will not be helpful. They should be put on hold at least until the immediate issues around Brexit are addressed.

We are not satisfied that there is evidence of sufficient problems generated by the current system which would justify the proposed level of radical reform and the danger that it will undermine confidence in the legal market at this crucial time. We believe that in-depth analysis, study and an impact investigation of the effect of the proposals is necessary prior to any such reforms.

2. What should be our key priorities over the next three years?

The one key priority has to be to ensure that members of the public have ready access to high quality, ethical and trustworthy legal services.

However, this cannot be viewed in isolation, in order to achieve this -

(i) Gather reliable evidence of the impact of the regulatory changes, and Brexit and carry out in-depth analysis, and prepare an impact report prior to implementing any changes.

(ii) Support the Profession in the complex challenges we face by providing helpful guidance. Whilst we require proportionate regulatory requirements we also require clarity. Outcomes focused regulations, supported by examples of Indicative behaviours, are not popular in the profession, as whilst flexibility is important, we crave clear guidance and boundaries from our regulators.

(ii) Ensure that the new SQE and periods of recognised training will provide sufficiently robust and effective measures to prevent standards in the profession being lowered or the brand of solicitor harmed domestically or internationally.

3. Do you have any comments on our proposed programme of work?

We believe that considerable care should be taken when considering implementation of the recommendations made in the CMA's Legal services Market Study.

The market for legal services to individuals and small businesses is already a fragmented one with multiple providers both regulated and unregulated. Even among solicitors there are a large number of firms and individuals of a range of size and offering a wide range of legal services. So consumers and small businesses do have a broad choice.

Competition is fierce between solicitors firms and non-solicitors including other regulated providers eg licensed conveyancers and counsel. Fixed and capped fees are common, aiding predictability and

comparison, and there are also existing price and quality comparison sites.

The problem in the current market is that those with no qualification or professional regulation are competing with the highly qualified who are heavily regulated. This is not understood by consumers. Whilst transparency with regard to costs is very important, it is equally important to enable consumers to make an informed choice, that legal service providers highlight what protections are available to consumers and whether they are subject to regulation in a way that is easily understood by the general public.

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

We believe that the greatest impact will be the proposed review of the SRA handbook.

Whilst reducing the regulatory burden would be helpful in allowing more freedom to and flexibility to innovate and respond to changes in the legal market it cannot be at the expense of public protection.

There is a significant danger that the proposals to allow solicitors to deliver legal services outside regulated firms may create a two-tier profession. This has serious implications for client protection, legal professional privilege, professional supervision, competition and the reputation standing of the solicitor profession both at home and abroad. It would create a confusing system of different rules and protections applying to clients, depending on where a solicitor is working We dealt with this in more detail in our previous response to the SRA 'Looking to the Future' Consultation. http://www.cardifflaw.org/home.php?page_id=393

Clients need the protection of professional indemnity insurance, access to the compensation fund and Legal Ombudsman. This issue is further aggravated by changes to supervision requirements that could mean newly qualified solicitors with no experience being able to set up their own unregulated firms. Also expecting solicitors working in highly regulated entities to compete with the unregulated or little regulated may result in unfair competition between providers of legal services, which is not in the public interest.

5. What have we missed?

We believe that the impact of technology on legal services merits a strategic aim of its own.

Technology is at the heart of the changes in delivery of and access to legal services and also the clients expectations of an instant, agile and more responsive legal service.

An additional strategic aim should be included dealing with -

- Legal service suppliers reducing costs by becoming more efficient at procedural and commodity work.
- Governing the advent of machine-read or artificial intelligence (AI) systems and new models of firm and process innovation.
- Reducing the impact through regulation and information of the inevitable increased risk with regard to cyber security and data protection.
- Monitoring any consequent changes to consumer decision-making and purchasing behaviours.

Balancing the requirement for increased speed, ability to communicate and transact via mobile devices against the need for consumer protection safeguards.

2. Your identity

Surname

Ofosu-Appiah

Forename(s)

David

**Please identify the capacity in which you are submitting a response. I am submitting a response...
on my own behalf as a solicitor in private practice**

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

All good proposals ,to create opportunities for Solicitors in house or in private practice in the context of business to business,or in relevance to business to customers in small firms or corporate.Professionalism and adding value quotient is the key.

2. What should be our key priorities over the next three years?

Brexit ,Brexit Brexit as UK leaving the EU,should be priority for the Law profession and business to have the foundation intact. Uncertainty is not good for our legal and any other profession or business.

3. Do you have any comments on our proposed programme of work?

The project is all good,clear vision by the SRA to go digital,re brand and transform the "Modus Operandi"

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

The Digital formation,inclusion of database of individual legal professionals and firms,make things simpler,concise,precise and declare clarity between the client consumer sectors and regulatory bodies and authorities in the UK and British Isles.

5. What have we missed?

Discount for up and coming legal professionals and firms,in waivers,exemptions on legal membership fees ,as they are struggling law professionals,start-ups,pre-seeds and early years out there.

Brexit impact needs to be discussed and communicated more before or earlier than March springtime 2019,and the future of Law Professionals ,Business,Projects post Brexit UK.



DEVON & SOMERSET LAW SOCIETY

Aston Court, Pynes Hill, Exeter EX2 5AZ

W: www.dasls.com

E: mail@dasls.com

T: 01392 366333

DX: 8361 Exeter

Enid Rowlands
Chair of the SRA Board
Solicitors Regulation Authority
External Affairs
The Cube
199 Wharfside Street
Birmingham B1 1RN

consultation@sra.org.uk

20 September 2017

Dear Ms Rowlands,

SRA Consultation: Draft Corporate Strategy 2017-20

The Devon & Somerset Law Society's Committee have considered this consultation in some detail and I have pleasure in enclosing our response.

We understand that The Law Society will shortly publish their response to this consultation and we would like the opportunity to respond further when we have seen and considered their views. I hope this is acceptable.

Yours sincerely,

SUE AGGETT

President, Devon & Somerset Law Society

president@dasls.com

Enclosure: DASLS response

20 September 2017

Solicitors Regulation Authority Corporate Strategy 2017-2020

Response to Consultation on behalf of Devon & Somerset Law Society

We welcome the opportunity to comment on the Corporate Strategy and would comment as follows:

Question 1 - *Do you have any comment on the key factors we have identified in the legal services market and wider environment?*

We support the premise that everyone should have access to high quality legal services that meet their needs, being the right service at the right time at the right price. We recognise the key issues which are set out and that these have informed the choices you have made about the strategy you will follow over the next three years.

We recognise that the CMA have identified the need to provide reliable, readily available information which is well-structured, clear and easily understood as the most significant factor in providing better information for the public. We believe that this is key. We share concerns articulated elsewhere that the public may well look to the cheapest option rather than considering the wider implications of dealing with regulated/unregulated service provision. We hope that information provided in the way you suggest will raise awareness of this, together with any mechanisms that are available to provide comparison of services to support fully informed consumer choice.

We recognise the importance of improving diversity and ensuring equality of opportunity in the market. We support the need to secure the best talent from every background with equal opportunity to progress careers, especially at senior levels. However, we would not support any proposals to "ring-fence" roles to specific under represented sectors as we believe that it is important that the right person is appointed for the role regardless of their background. We would support any proposals which would enhance access for all to career opportunities at the highest level.

Question 2 - *What should be our key priorities over the next 3 years?*

3 key priorities were identified in our discussions, namely –

- 1 Our exit from the European Union which has clearly been identified through your corporate strategy

- 2 Efficiency and timeliness in providing the regulatory service and support for those being regulated in addition to the consumer
- 3 Money laundering and cybercrime - this is a huge area for practitioners as we are both supporting the regulation of money laundering and protection issues relating to cybercrime. As much information and support as possible would be welcomed. It is reassuring to note that the SRA have advised they will take a sensible and pragmatic approach to anti money laundering supervision following commencement of the new regulations, allowing legal professionals time to adapt to the new requirements.

Question 3 - *Do you have any comments on our proposed Programme of Work?*

Many of the elements of the strategic aims have been the subject of extensive consultation and dialogue prior to the development of your Corporate Strategy and the programme has been developed by the SRA. We do not therefore feel it is appropriate to comment as it would be difficult to do so without rehearsing many of the representations that have already been made.

Question 4 - *What in our Corporate Strategy 2017-2020 do you think will make the greatest impact?*

In considering this question we have looked at both the positive and negative impacts:

Positive

- Modernising IT and business improvement – this is welcomed as it is hoped it will improve the effectiveness and efficiency of the SRA as a regulator
- Engagement and consideration in relation to political development/cross border relationships within the UK and the EU with the support of continuation of EU lawyer's framework
- Information in relation to regulated/non-regulated services. It is considered extremely important that this is clear, informative and concise to ensure the consumer is as informed as they can be

Negative

- We agree with the concerns expressed by The Law society around the SQE if the academic and work experience requirements don't receive proper scrutiny to ensure standards are maintained

- How great an awareness will the public have of the rules associated with unregulated firms? We have concern that there could be a reduction rather than an enhancement of consumer protection e.g. no PII, no access to compensation fund or LeO
- Potential for harm to the reputation of all solicitors because the differences won't be understood

Question 5 - What have we missed?

The following are suggested for your consideration:

- 1 How will you engage with the profession? The high level aims in the Corporate Strategy are welcomed but the devil will be in the detail. Full and comprehensive responses have been given to consultations so far. Understanding how the detail will be progressed and the opportunities for engagement would be helpful.
- 2 How will you protect against "frivolous/vexatious referrals". It is possible that these may increase as the market is widened out as has been stated earlier in this response. Consumers may not read the small print but go for the cheapest option leading to high expectations usually associated with solicitors not being met.
- 3 There is reference in strategic aim 3 to wide engagement including hard to reach groups. It would be helpful to understand what the strategy will be for engaging with hard to reach groups.
- 4 Whilst throughout the Corporate Strategy there is reference to both those being regulated and the consumer, there appears to be more focus on members of the public and businesses than there is on the solicitors' profession and in particular those subject to regulation. This feels disproportionate and it would be reassuring for greater recognition to be made within the strategy of the challenges facing those you regulate.
- 5 We recognise that you work together with a number of partners and stakeholders. However, acknowledging that the role of the Law Society is significant, there does not appear to be a great deal of detail about how you will work collaboratively with the Law Society in delivering your respective roles.

2. Your identity

Surname

Bray

Forename(s)

Jonathon

Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of my firm.

Please enter your firm's name:: Jonathon Bray Legal Services Limited

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

No comment.

2. What should be our key priorities over the next three years?

Getting out of the way; reducing burdens on professionals.

3. Do you have any comments on our proposed programme of work?

No comment.

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

Solicitors practising in unregulated businesses, uninsured. There may be a good rationale for moving in this direction. But there is also a huge risk that this will confuse the regulated standing of solicitors and reduce the trust and confidence the public has in the profession. It is a momentous shift, more significant than the introduction of ABSs. It feels very much like a regulatory gamble. It should require primary legislation in the form of reform of the LSA2007 - review of the reserved activities in particular.

5. What have we missed?

The aims of the Draft Corporate Strategy are laudable. Much is made of the benefits to the public. However, there is no acknowledgment of the associated risks.

Let's take Code of Conduct reform as an example. Stripping down and simplifying the rules is almost certainly a good thing. But there is a risk, if implemented poorly, that it will confuse matters. E.g. if guidance and 'toolkits' are hard to find on the SRA site, that will mean practitioners will never be sure if they have reviewed everything they need to before making a decision.

Without acknowledging the risks attached to each benefit, there is the potential to push things through for reform's sake, without considering the wider implications. You cannot rely on the consultation process - response rates are notoriously low, and by the sounds of it solicitors are going to be asked to consider a lot of long consultation documents.

SRA Consultation – Corporate Strategy 2017 - 2020

Question 1

Do you have any comments on the key factors we have identified in the legal services market and wider environment?

A changing market:

We acknowledge and in principle support the expansion of the legal services market to better accommodate currently unregulated providers to encourage greater value and competition. However, we feel that great consideration needs to be undertaken to preserve and evolve the regulatory structure to ensure high standards. We are concerned that unregulated providers are seen as an inevitable outcome of modernisation but they may not offer meaningful protections if a matter turns out poorly for the client. Left unchecked this process could easily erode the many years of work undertaken to create this regulatory structure. It should not be relinquished too easily in the face of technological change and innovation. The modern provision of legal services can be a transformed model but still needs quality and robust structure at its heart, because consumers don't differentiate between 'types' of service provider, they just focus on the matter itself. A solicitor, a legal executive or a licenced will writer will have little to differentiate them to the average consumer.

Meeting the need for accessible, affordable legal services:

Given the number of potential clients actively seeking legal help reflects a tiny percentage of those needing such help, there is clearly an enormous problem with value perception and awareness of rights. However, as mentioned above, we would support the idea of innovation in service provision and client acquisition delivering significant cost savings per matter allowing for more affordable pricing. Law firms currently have high office costs and high client acquisition costs and will ultimately have to explore flexible office management as well as cost effective digital engagement to drive awareness. There are still insufficient numbers of solicitors breaking out into new practice areas, especially with consumer focus. An example being the low numbers of consumers seeking to instruct firms in matters of miss selling, banking and finance disputes. Only three firms currently offer specialized consumer credit representation which is astonishing considering the volume of negative news stories and incidents involving financial providers over the last ten years. In addition, law firms could engage far more in online advice via instant messaging which could easily streamline the instruction process and allow the client to properly understand the case before committing. Most 'advice' will be available online for free in future, the solicitors must be prepared to handle the 'matters' that will result from those consumers being better able to triage their own cases before instruction.

Law firms also need to give real consideration to the unbundling of their services wherever possible, thereby allowing consumers to choose to DIY via their own knowledge or by using on-line free advice and then instructing for those parts of the process where they need the detailed expertise of a solicitor. This will often give the opportunity for solicitors to up-sell their services having already established a trusted relationship with their client. In less complex cases then more law firms (as encouraged by the CMA report and you their regulator) should consider providing fixed fee services for "simple or standard" matters. In the majority of cases once the full details are known, matters are rarely simple or standard which will allow for up-selling of services but in a way in which the client can

see the clear benefit. Both options give law firms the opportunity to engage with clients in a way that they will find both affordable and start to "demystify" the market and be seen to be more accessible.

Better Information for the public:

We noted from the SRA's June response to the CMA report that it plans to promote the LegalChoices website as part of its initiative to improve transparency. This is welcome, but does not go to the heart of the core issue on transparency. Consumers want to see some indication of pricing, perhaps for a set range of fixed fee products, before having to engage directly to the law firm. Less than 17% of firms currently display any pricing on their websites and this obstructs consumers from engaging because they feel the law firm will hit them with high fees just for a first appointment. This perception is in part inaccurate, the average matter fee across law firms is around £350; which means there are many tens of thousands of issues being handled for less than amount. An equivalent cost to a car repair or a shopping trip. We believe consumers have been 'miss-sold' the legal profession and we would encourage greater awareness of the low cost of most instructions.

The LegalChoices website does not connect to any of the price comparison providers who comply with the Good Practice standards as listed by The Legal Services Board. As far as we are aware, our own website JustBeagle.com is the only independent 'all of market' independent comparison site and we believe that the SRA should work with providers like ours to show engagement with the recommendations of the CMA and also to lead the way in assisting your member firms to make the most of the landscape of digital online client acquisition strategies.

The need for more proportionate and less burdensome regulation:

As the industry transforms, regulation will be vital to keep track. Given the gravity and importance of the responsibilities placed upon solicitors to handle life changing transactions and disputes, a very high level of regulatory framework must exist to protect clients and the profession itself.

Our work on our consumer law forum LegalBeagles over the last ten years has given us insight not only into the times when legal instruction goes badly, but also to when legal instruction has absolutely transformed a person's circumstances for the better. Solicitors and all those in the profession have a cast iron duty to maintain standards and despite changes upcoming in the industry we would only support a loosening of regulatory control to allow greater flexible working, greater reliance on secure digital systems to maintain staff unity, supervision and case management rather than relax the rules around standards and financial protections and complaints procedures.

Innovation:

Innovation will transform legal services comprehensively within 20 years and it will be far more usual to engage with your represented solicitor via digital online services than face to face. Huge consideration needs to be given to protecting the data involved and the integrity of the system providing the communication channels. Client acquisition will be almost entirely digital so strong leadership will be necessary to assist law firms in navigating the new commercial landscape where there will likely be a higher number of instructions but at lower cost per case.

Law firms also need to engage with appropriate innovation and technology to reduce the cost of "on-boarding" a client and the ongoing management of a file. This will invariably reduce the administrative cost of handling a client matter, thus leading to a higher proportion of the fees paid by the client being for the legal expertise which is what they actually need.

The need for regulation to work for all types of firm:

This is absolutely essential because just as much damage could be caused by a sole practitioner as a large firm. The size of firm should be somewhat irrelevant when it comes to standards of practice and a client risk and financial management. This is why flexibility needs to be strongly explored around work places, work methods and a digital interaction with these key changes.

The need for regulation is undoubtedly what ensures that the legal industry maintains and continues to have a reputation for strong practice standards. However, this does need to be balanced with consideration being given to the administrative and time burden of the COLP and COFA roles in a sole or very small practice which larger firms can absorb in terms of resources and time.

EU Membership:

Despite the uncertainty for the future, there is little doubt that legal matters transcend all boundaries and that fully digital engagement could lead to smaller firms engaging with international work as the opportunities will be more easily accessed in a digital landscape. Once again, regulatory structure and oversight must be maintained throughout border changes to ensure that our truly international industry only grows.

Improving diversity and ensuring equality of opportunity in the market:

We believe there is an encouraging acceleration towards true diversity and equality. Law represents opportunities for those from poorer backgrounds to study their way into the profession, but nevertheless, they will still face the same stiff competition for jobs and training contracts. We agree that our legal representatives must represent our diverse culture and communities and that this will in itself help to open up new legal practice areas and opportunities.

We do however feel that more should be done to encourage diversity and equality in senior positions in law firms. It still seems that although at more junior levels in law firms there is action being taken to encourage diversity and equality, this is not progressing at an equal pace at partner level where there is still this glass ceiling.

Increasing complexity and risks:

We have worked extensively at LegalBeagles on various online fraud cases and we often use our social media to broadcast SRA alerts about law firms being imitated or hacked. The digital enemy is very sophisticated and the SRA should give very serious thought to its role in managing online risk. As was revealed with the 'Panama Hacks', the consequences of a law firm breach can be devastating. The consequences to consumers and SME's could be very significant so this issue should be treated as a standalone barrier to growth if not tackled very comprehensively.

Financial crime and money laundering:

It is essential that the SRA works closely with the FCA and FATF to play a key role in protecting the legal industry from the increasing threat from complex financial fraud and participation in money laundering. Due consideration should also be given to the ongoing reputational and financial risks associated with working with claims management companies.

Larger law firms are probably better able and equipped to have processes and structures in place to minimise the risk of financial crime and money laundering. Although they may be perceived as a "bigger" target consideration needs to be given to support, by way of practice notes, webinars and regular alerts for the smaller law firms that may not have such extensive and robust systems in place.

The demand for professional regulation with excellent levels of service:

It is essential that the regulator is seen as a flag bearer for the legal industry and must lead by example into the future. The delay in the industry at truly engaging with the internet is bordering on embarrassing, so far do we lag behind all other service providers. The SRA already offers extremely high service standards in comparison with other regulators, especially in the financial sector. The SRA has steered the profession capably and responsibly but now it must lead to ensure the industry survives the changes coming.

The structures of legal regulation:

There is clearly serious discussion to be held around the current confusing regulatory structure. The SRA must be at the forefront of any future regulatory structure and therefore should be not just participating but actively leading the debate to bring greater clarity to the various legal regulatory organisations which currently have low visibility with consumers. As stated briefly earlier, we believe that the legal services offered should be regulated rather than the full focus being placed upon the type of legal services provider.

Question 2

What should be our key priorities over the next three years?

We agree in principle with the key priorities set for the next three years but have added comments to the relevant sections where we felt further emphasis or focus is required.

1. We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future.

The public, users of legal services and the justice system need to have confidence that those we regulate are competent, have high professional and ethical standards and operate within a framework that puts the interests of the proper administration of justice and clients before their own. We will focus on high, consistent standards of entry into the regulated community and on our systems of supervision and enforcement. This is to make sure that there is confidence that standards are maintained and applied in practice.

We strongly support this consistent approach to regulatory standards, which must remain central to any future legal industry capable of maintaining the respect, integrity and standards at the heart of the profession.

2. We will make sure our regulatory requirements are proportionate, providing solicitors and firms the flexibility to innovate and better meet the needs of members of the public and businesses, while maintaining appropriate levels of public protection.

We will continue to review and modernise our regulatory requirements, removing unnecessary restrictions and requirements that burden firms with unnecessary costs and prevent solicitors and firms from meeting the needs of the public and businesses. At the same time, we will make sure that protections for people that need them are set and maintained at appropriate levels.

Proportionality will be important to allow firms to transform, consideration needs to be given to the very high number of sole practitioners active who are currently burdened with full COLP/COLF

responsibilities despite handling a very low volume of cases. As law firms diversify, new flexible work arrangements will dominate so the SRA needs to be ahead of the curve to anticipate the hurdles this change will present.

3. We will increase the availability of relevant and timely information to help people make informed choices in the legal services market.

We will implement the recommendations made in the CMA's Legal services market study, published in December 2016. We will engage in a fully inclusive way with the public and with other regulators to identify the most appropriate information and the best means of making it available in a consistent, comparable and readily accessible form. We will work with the profession to explain the benefits of providing better information and will seek to minimise the impact of data collection on those we regulate. We will also set out our commitment to sharing information with the public in an accessible way, making sure they know what to expect from us.

As an independent organisation who utilise the SRA data sharing agreement to be able to populate our solicitor comparison platform JustBeagle.com, we are not yet seeing significant engagement between those companies who use the data and the SRA showing interest in how we are putting the data to use. We note the plan to use LegalChoices website to improve consumer enlightenment but feel this limits the consumers' inevitable appetite for full comparison data. We also feel this does not fully address the distressed nature of consumers seeking legal help, they are disinterested in 'types of lawyer, types of fees', with respect, they are concerned and worried and likely to make poor choices. Our forum which operates 24 hrs daily sees examples of this situation regularly, we believe online chat and guidance will play a huge role in reaching out to such consumers and that the regulator should aim higher than standard static information sites. There is low awareness of legal regulators among consumers so it is important for the SRA to engage positively with those independent and ethical organisations trying to meet the real need from consumers to connect with lawyers in a far more streamlined and less stressful manner.

4. We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU.

The political and legal environment within which we and those we regulate operate is changing rapidly. We will work to make sure that regulatory arrangements within the UK and across national boundaries work well, making it as easy as possible for firms to operate across national boundaries and operate in the interests of UK businesses and the public.

We wish the SRA the greatest of luck in navigating the frankly unknown circumstances ahead outside of the EU! We believe the British legal industry is admired, respected and exported around the world and the upcoming changes should not impact that too deeply at least.

We will work better together, and with others, to improve our overall effectiveness, our responsiveness and the delivery of our regulatory functions.

To deliver our strategic aims, we must evolve and improve our performance – across all aspects of our responsibilities. During this period, we will focus particularly on improving engagement and collaboration with our customers, so we can meet their needs. We will make sure our staff have the right skills to meet new challenges, and will focus on modernising our business systems and IT, putting our customers at the heart of our development.

Question 3

Do you have any comments on our proposed programme of work?

No further comments to those added above.

Question 4

What in our Corporate Strategy 2017–20 do you think will make the greatest impact?

If the SRA can achieve modernisation of the industry while maintaining and evolving excellent standards of regulation and consumer protection, then that will deliver an enormous benefit to the profession going forward. This will be an extremely tough challenge for the SRA especially in an uncertain time for the UK, but the need for professional representation in all manner of disputes is not going to diminish into the future, if anything digital engagement could increase the number of instructions. A time of great change and innovation is ahead and the SRA can play a leading role in taking the legal industry into the future with solidity and confidence.

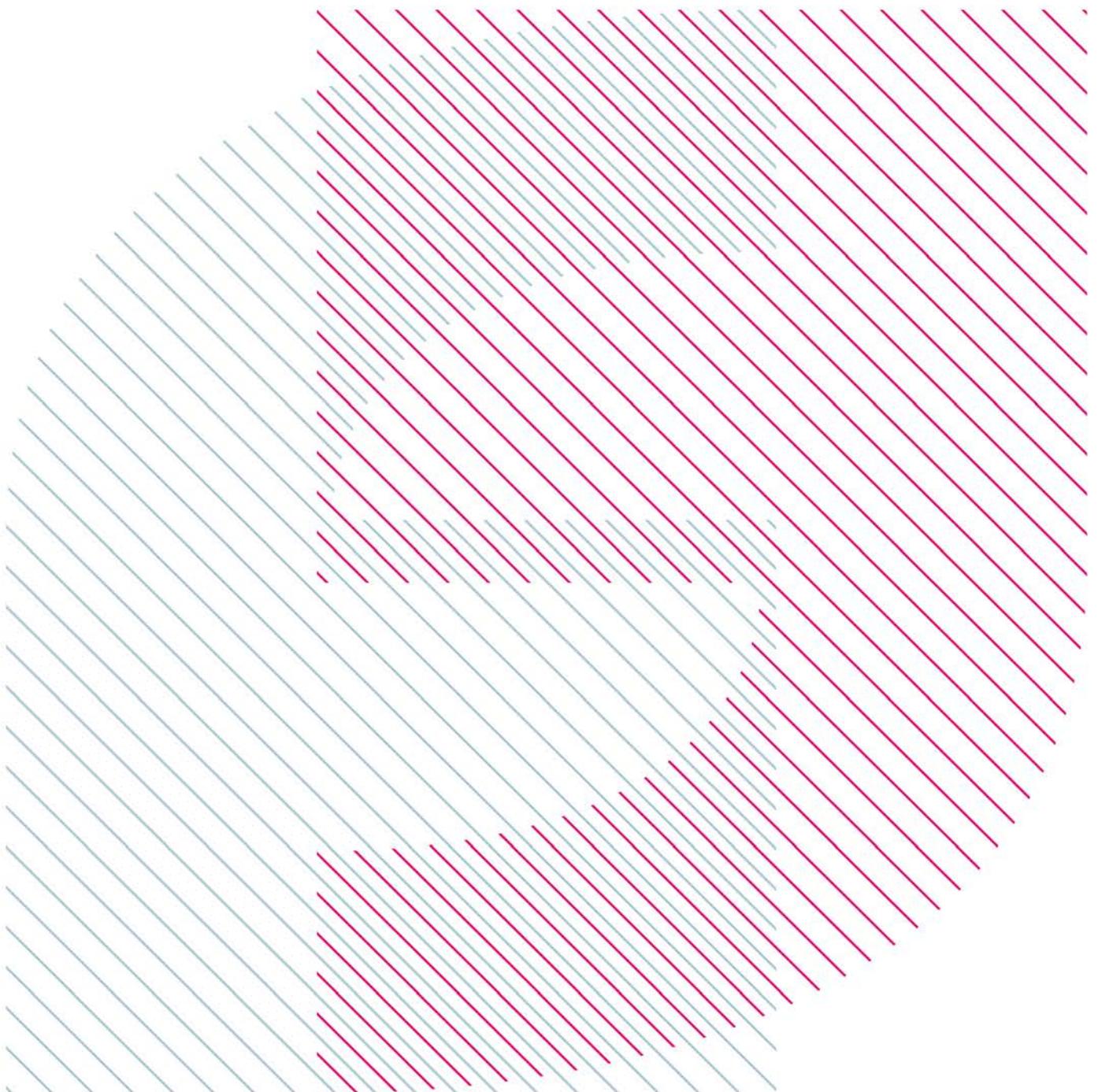
Kate Briscoe

CEO LegalBeagles & JustBeagle

20th September 2017

LEGAL
OMBUDSMAN

**Solicitors Regulation
Authority: Corporate
Strategy 2017–20**



Introduction

1. The Legal Ombudsman was established by the Legal Services Act (2007). Our role is two-fold: to provide consumer protection and redress when things go wrong in transactions within the legal services market, and also to feed the lessons we learn from complaints back to the profession, regulators and policy makers to allow the market to develop and improve.
2. We welcome the opportunity to respond to the Solicitors Regulation Authority (SRA) consultation on their new Corporate Strategy (2017-20), which sets out a focused vision and action plan for the next three years.
3. Strategic aims 2 and 3 are of specific interest to us. In particular, the plans to allow authorised persons to practise from unregulated entities are likely to affect our own work in a significant way. We are also invested in the opportunity to improve public understanding of legal rights and duties as part of our regulatory objectives. We are keen to engage with the SRA in making more information available to the public to facilitate choice in the legal services market.
4. Our wider view on the strategy is positive: the document makes pertinent assessments of the legal landscape at this time and builds flexibility and innovation into the SRA's approach for the next three years. While we have some comments and questions about specific points, we look forward to working collaboratively on these objectives with the SRA in the future.

SRA Corporate Strategy 2017-20

Q.1 Do you have any comments on the key factors we have identified in the legal services market and wider environment?

5. We believe that these key factors are well-identified: they are relevant, contextual and appropriate, and we would welcome a focus on these matters. We appreciate the breadth of scope, in that the SRA appear to be looking both at existing practice within the profession and potential new areas waiting to be explored.
6. However, while we applaud the focus on improving access to justice, widening diversity in the profession and improving public knowledge of the legal services market, we believe the optimism of this outlook must also be tempered with pragmatism in the face of the demands of 'Brexit'. The key factor of EU membership

and constitutional development in the UK should be an overarching one which will inform all activities planned for the next three years. All other factors must be considered in this framework of huge constitutional change.

7. Nevertheless, the SRA should still push ahead as much as possible. The SRA must consider all of these factors in the framework of Brexit, but this should not be the only issue on the agenda at the expense of everything else. We applaud the SRA for remaining focused on improvement and suggest only that some of the more ambitious projects may face difficulty in competing against the demands made by Britain's leaving the EU.
8. To take a broader view, we believe that the balance struck between horizon scanning, improving existing regulatory arrangements and upgrading internal processes is fitting for a three-year corporate strategy.

Q.2 What should be our key priorities over the next three years?

9. We take the view that the SRA's commitment to making sure that regulation is proportionate and innovative should absolutely remain a key priority. This of course means ensuring that regulation is meeting the needs of consumers as well the profession, but also that it remains aligned with government thinking. We note that some of these changes may require legislative amendments, and so in anticipation of a rather reduced appetite in Westminster for further legislative change in areas unrelated to Brexit, we suggest that the SRA might narrow its focus for this strategy, seeing this as a first step on a longer journey of innovation and adaptation.
10. There is great movement happening within the market and beyond, and therefore we encourage the SRA to focus on embedding changes within the existing framework. It is important to ensure there is understanding of the impact of wide-ranging change on organisations such as (but not limited to) our own. With such a wealth of activity, we also encourage the SRA to focus on engaging with the right people, making sure all projects are inclusive and a cohesive approach is taken to their far-reaching work.
11. In particular, we are concerned that these changes should not have a detrimental impact on consumers; it is crucial that changes in regulation do not lead to consumer confusion, and therefore there must be a focus on how implementation of the big projects in this strategy will affect this. One of the most important matters during a period of change in the market is to keep the availability of consumer protection and redress constant and in fact aim to tighten and augment provision.
12. Finally, we support the SRA in being informed but not defined by consultation responses. We encourage the SRA in determining for themselves what their policies should be; taking into consideration the comments of others without allowing these to dictate their path entirely.

Q.3 Do you have any comments on our proposed programme of work?

13. It is important to the Legal Ombudsman that we ensure that close collaboration continues between our organisations, even with changing circumstances. In particular we look forward to the opportunity to enhance our data sharing capability for the purposes of joint working. We were pleased to be involved in recent research on first-tier complaints handling and would welcome the opportunity to work with the SRA on projects like this in the future.
14. We will be interested to read consultation responses and results of wider research into measures to improve public information on legal services. As a body that seeks always to improve access to justice for consumers, more informed choice is something we support wholeheartedly.
15. An area which is of particular concern to the Legal Ombudsman is that of regulated solicitors practising within unregulated entities. We have previously set out our views on this matter in our full response to the SRA's 'Looking To The Future' consultation. However we would like to take this opportunity to lay out a brief summary of our ongoing concerns on this matter.
- We support the wider policy objective behind this proposal to provide greater flexibility for solicitors to deliver their services, and therefore give consumers greater access to competent and affordable legal advice when needed.
 - Nevertheless, we do have concerns about the impact on the principle of entity-based regulation, the wider system of redress and how they will work in practice. It is not yet clear how many firms and solicitors are likely to adopt this model and so the depth of the impact on our organisation does need to be clarified.
 - We remain concerned that these new provisions might make it significantly more difficult for us to deliver our entire complaints handling service. We encourage consideration of the implications of this policy across the wider landscape as this will affect the work of many bodies including our own.
 - When the Legal Ombudsman was set up it was envisaged that this would simplify the existing system for redress and reduce confusion among consumers. We are aware that the system for redress is still far from perfect and could be simpler for consumers. Therefore when we consider proposals such as these we always look at whether they simplify or maintain the existing arrangements, or if they are likely to lead to further complication and confusion. At this stage we believe that the proposals will complicate the system of redress and create confusion for consumers and service providers.

- The proposals primarily create difficulty for us because our jurisdiction is over the authorised individual (solicitor) rather than the firm or anyone else who works there. While technically a consumer still has access to the Legal Ombudsman for the work of the solicitor it will rarely be so straightforward. We envisage difficulties in understanding who has actually undertaken work for the consumer, whether this can be evidenced and whether we have powers to request evidence.
- The SRA's strategy acknowledges that providing good quality information to consumers is essential, but we question how far consumers will understand the relationship they are entering into in these cases. In our experience consumers rarely appreciate the difference between a regulated and unregulated practice, and choice is often driven by cost and word of mouth rather than an assessment of the protections available to them . Consumers only become concerned with protection issues if a problem arises with the service they receive.
- If a consumer brings a complaint about the service they have received, they will expect all elements of the case to be investigated. Yet there are likely to be situations where we will have to select which elements of a case we can investigate, and would not be able to comment on the actions of the firm.

16. Nevertheless, we would always be willing to devise new ways to deal with these jurisdictional difficulties, and look forward to working with the SRA, LSB and the Ministry of Justice to find solutions. We would be happy to explore all possibilities, including making changes to governance rules to include minimal regulation for providers who are currently unregistered.

Q.4 What in our Corporate Strategy 2017–20 do you think will make the greatest impact?

17. We believe that our organisation does not have enough information to comment on this matter, and it is not our place to speculate. We will, of course, be following the work of the SRA closely as this strategy is implemented.

Conclusion

18. Thank you for the opportunity to comment on the Solicitors Regulation Authority's new corporate strategy.
19. Overall, we believe this strategy identifies commendable objectives for the SRA in the coming years. These strike at the heart of some of the biggest challenges that we are seeing in the legal services market at the moment
20. As we have voiced previously in our response to the Looking To The Future consultation, we do have concerns about proposed changes to the rules governing the practice of regulated solicitors. However, we would be happy to work with the SRA on this to identify ways to overcome these new challenges.

For any questions about our response please contact our Parliamentary and Policy Associate at sarah.ritzenhaler@legalombudsman.org.uk.

Sent by email only to consultation@sra.org.uk



28 September 2017

Dear Sir/Madam

Corporate Strategy 2017–20 Consultation

The Legal Services Consumer Panel (the Panel) welcomes the opportunity to respond to the Solicitors Regulatory Authority's (SRA) consultation on its Corporate Strategy.

The Panel agrees with the challenges and opportunities described by the SRA in its consultation document. We are broadly supportive of the SRA's strategic aims, although we believe the final document would benefit from a fuller explanation about how the SRA proposes to achieve its intended outcomes. The SRA's consultation document is also light on evaluation. We would suggest that the final document expands on this important aspect.

We have tailored our response to mirror the structure of the SRA's consultation document. We have therefore commented on each strategic objective, as outlined in the consultation document.

The SRA's strategic aims for the next three years

Strategic aim one

The SRA aims to set and apply high standards of professional standards for the individuals and firms it regulates. To achieve this objective, the SRA has outlined plans to improve training, professional developments and diversity. In addition, the SRA plans to revise its enforcement strategy.

The Solicitors Qualifying Examination and diversity

We continue to support the principle of a standardised professional assessment with the facility to extend clear routes of, and flexibility in, access to qualification. The SQE will introduce a consistent assessment and standards at the point of entry into the profession. In the Panel's response to the SRA's consultation on this subject,¹ we raised concerns around diversity, flexibility, funding and the timings for the SQE's implementation. Some of these concerns remain for the Panel. In particular, the uncertain cost of funding and clarity needed in the assessment of pre-qualification experience when applied to the parallel degree and apprenticeship routes, as referenced in the Panels consultation response. Whilst the project is still at building stage, we encourage the SRA to keep under review the stipulated timeframe for the SQE's implementation, and adjust this if necessary to avoid jeopardising the outcome.

¹ A new route to qualification: The Solicitors Qualifying Examination, Legal Services Consumer Panel, 2017.

Diversity

The SRA should continue to work with the wider profession to improve diversity at the point of entry and beyond. This will encourage the development of services for a variety of consumer need. Clearly defined goals to ensure diversity across the professions would be helpful.

Enforcement Strategy

The Panel welcomes the SRA's proposal to consult on plans to revise and update its enforcement strategy. We agree that a clear strategy can provide clarity for providers, consumers and the wider public. Additionally, it can elucidate the consequences of not meeting professional standards, and the threshold for assessing how serious a breach is.

The Panel would suggest that the consultation considers whether current enforcement processes provide sufficient deterrent across the spectrum of firms and individuals subject to the exercise of enforcement powers by the regulators.

In addition to the question posed above, we would like the SRA to consider the role enforcement decisions can play in contributing to better-informed consumers. The Panel notes that there is currently very little evidence or focus around how to use enforcement data to empower and or inform consumers decision making. We know that in the financial services sector, 41% of consumers surveyed said that fines for financial misconduct would influence their decision 'a great deal' when choosing a financial services provider.² In addition, a quarter of respondents said that if their current financial provider had been convicted of a crime, e.g. manipulation of interest rates, they would decide to switch providers.

The Panel believes that legal services regulators could do more to harness the power of consumers to make informed decisions by making enforcement decisions readily and easily available. In our Open Data report,³ we recommended that regulators should establish a single portal for regulatory history and conduct information. The Competition and Markets Authority (CMA)⁴ further developed this idea and recommended that regulators should consider the feasibility of a single digital register. We are pleased that the SRA is leading this strand of work with a clear commitment to getting it right. The Panel believes that the single digital register should contain enforcement decisions. Although enforcement decisions are generally publicly available, it is rarely easily accessible and certainly not conveniently located in one place. We believe the collation and presentation of enforcement decision on the digital register will improve the way in which consumers engage with enforcement information. It will also contribute positively to the SRA's transparency agenda.

Strategic aim two

We are supportive of the SRA's aim to modernise the regulatory arrangements in order to give providers greater freedom to innovate and to meet consumer's needs.

² Ipsos Mori on behalf of the Financial Services Consumer Panel conducted a Face to Face Omnibus Survey, 2014.

³ Information Remedies, Legal Services Consumer Panel, 2017.

⁴ Legal services market study, Competition and Market Authority, 2016.

Innovation

The Panel welcomes the SRA's focus on innovation and improving services for consumers. In our 2020 Legal Services report,⁵ the Panel said that innovation has the potential to create new markets, cheaper services, increase transparency, empower consumers, and enhance access to justice. We however advised regulators to remain mindful of the needs of vulnerable consumers who may not always be able to take advantage of innovation like technological developments.

We agree that regulation should support innovation. However, innovation must produce good consumer outcomes. Regulators should be aware and equipped to deal with the associated risks of innovation. Regulators should acquire new skills, consumer data and analytical tools to help with managing risks. While we agree that regulators need to be flexible to facilitate growth and allow providers to innovate, they must also be alert to the need to protect consumers, especially vulnerable consumers.

Solicitors practising in non-regulated firms

We are supportive of proposals that are designed to improve flexibility of practise for solicitors and to encourage more diverse delivery methods of legal services. The Panel has, however, raised concerns around reductions in consumer protection and the confusion that may result for users unfamiliar with the different protections applicable to non-reserved legal activities and reserved activities.⁶ The SRA has outlined plans to use information remedies to highlight reductions in consumer protections. Whilst we have emphasised the limitations of information remedies⁷ in some circumstances, we recognise that it has a role to play in explaining differences in consumer protection provided by different business models. The Legal Choices website should also be used as a portal for outlining and explaining these differences, including any implications for consumer protection. We expect to see the use of information remedies accompanied by robust consumer testing.

Consumer protection

The requirement for solicitors to have Professional Indemnity Insurance and to contribute to a Compensation Fund offers protection to solicitors and consumers alike. Consumers run the risk of significant financial loss because of errors or omissions. Regulatory prescription for insurance safeguards both solicitors and consumers against loss, allowing them to contract with greater confidence and peace of mind. A scandal affecting a single firm can erode public confidence more broadly if financial protection arrangements are not robust. We are sympathetic to attempts to assess whether current requirements are prohibitive, inflexible and costly, and to alleviate these where necessary.

In carrying out its consumer protection review, it will be important for the SRA to show that the appropriate balance of risks had been struck between all parties (insurers, providers, consumers and the public), taking into consideration consumers' lack of expertise and experience in dealing with legal matters. The Panel also believes that regulators should be realistic about the risks that consumers can reasonably be expected to both understand and manage. We are convinced that consumer research will help the SRA arrive at the right balance and we look forward to engaging with the SRA on this important issue.

⁵ 2020 Legal Services, How regulators should prepare for the future, Legal Services Consumer Panel, 2014.

⁶ Looking to the future: Flexibility and public protection, Legal Services Consumer Panel, 2016.

⁷ Information Remedies, Legal Services Consumer Panel, 2017.

Strategic aim three

The Panel is supportive of the SRA's plans to increase the availability of relevant and timely information to help consumers to make informed choices.

Our latest Tracker Survey⁸ shows that the most important factors influencing consumers choice of providers are reputation (75%), price (69%) and specialism (67%). Despite price being an important factor, our research shows low levels of transparency. A very small proportion of consumers surveyed found the price on providers' website (6%) or in advertisements (4%). The majority (61%) had a discussion with the provider to determine the price. The Legal Services Board's research⁹ found that only 17% of providers displayed their fees on their website.

The Panel has consistently said that providers are not responding quickly enough to consumers need for transparency around price and quality. The Panel has also been clear that price transparency without information on quality could mislead consumers into thinking that higher-priced services mean better quality. Therefore, information on both quality and price is essential to make transparency meaningful. The Panel remains convinced that mandatory regulatory intervention around price transparency and quality is necessary to improve competition that delivers good consumer outcomes. Additionally, we would emphasise that the presentation of this information is as important as its availability.

Finally, there are intermediaries, such as price comparison websites well placed to present consumers with pricing information, quality indicators, and other features to help them assess services. However, to flourish, these intermediaries need access to information on price and quality of services. The Law Superstore, a comparison website, recently exited the market, partly because it found it difficult to progress without price information.¹⁰ This is yet another reason why the Panel believes that intervention is necessary in this area.

Strategic aim four

The Panel welcomes the SRA's aim to ensure that their regulatory arrangements work as effectively as possible for individual consumers, businesses, and providers in the context of the UK leaving the European Union (EU).

In the financial services sector, we note that the Financial Services Consumer Panel, HM Treasury, and other stakeholders have worked together on research to identify a post-EU exit regulatory framework that delivers good consumer outcomes for the financial sector. The Panel is of the strong view that the legal services regulators and other stakeholders should collaborate on similar research as soon as practicable. The UK is the largest legal services market in Europe, currently worth more than £32bn per year to the economy.¹¹ Therefore, more needs to be done collectively to ensure that the market continues to deliver wider economic benefits and good consumer outcomes post exiting the EU.

The Panel also welcomes the SRA's focus on consumers in Wales, and its continued working relationship with the Welsh authorities and community.

⁸ How consumers are choosing legal services, Legal Services Consumer Panel, 2016.

⁹ Prices of Individual Consumer Legal Services, Legal Services Board, 2016.

¹⁰ Pioneering price comparison site Law Superstore taken over, The Law Society Gazette, 15 August 2017

<https://www.lawgazette.co.uk/law/pioneering-price-comparison-site-law-superstore-taken-over/5062458.article>.

¹¹ UK Legal Services Market Report 6th edition, IRN Research, 2016.

Strategic aim five

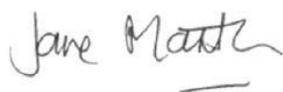
The Panel supports the SRA's aim to work better and together with others to improve its overall effectiveness, its responsiveness, and the delivery of its regulatory functions.

We fully support the plans for the SRA to modernise its IT system and the programme of engagement it has set out. We remain concerned that there is not enough consumer research and testing to guide regulation across the sector. We believe the SRA can play a bigger role in collaborating on research, particularly with smaller regulators.

Priority

The Panel believes that it is important for stakeholders to understand the SRA's order of priority over the next three years. In our view, a key priority has to be the CMA's transparency remedies in light of the deficiencies found in the market. We also believe that the final strategy needs to be flexible enough to adapt or respond to external developments, particularly in light of the uncertainties around the impending changes to the United Kingdom's relationship with the European Union.

We would be very happy to meet and discuss any aspect of this response in further detail. Please contact Lau Ciocan for further queries at lau.ciocan@legalservicesconsumerpanel.org.uk.



Yours sincerely

Dr Jane Martin

Chair

2. Your identity

Surname

Fox

Forename(s)

Mickaela Louise

Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of a local law society

Please enter the name of the society.: Liverpool Law Society Regulatory Committee

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

Whilst the LLS observe that the key factors are discussed throughout the Consultation, the LLS feel more could be said on issues of particular concern, such as the evolving legal market following the diversification on qualification and introduction of new entrants and the future landscape for the profession in light of technological advances. As these are factors that will shape the profession over the period of the strategy under review the LLS expected to see the SRA's thinking on these issues set out in more than outline form in the Consultation.

There is real concerned among the profession over the possibility of large scale retailers entering the legal market in an unregulated form, be it through an online platform or otherwise, with an aim at the mass market. The LLS would wish to see (a) a recognition in the SRA's strategy for the next 3 years that this is a concern and (b) how the SRA's will respond to this developing area more particularly, how it proposes, if at all, to regulate what may transpire to be computer generated advice and/or to adapt its regulation of the profession to ensure that it can compete/to achieve a level playing field.

2. What should be our key priorities over the next three years?

See answer to Q1 above.

The LLS would want to see more recognition of the rapid pace at which the legal market is evolving, through regulation which is flexible enough to remain relevant and proportionate. Continuous dialogue with the profession and its representative bodies is, in the LLS's view key to this.

The LLS also wishes to see more detail on the proposals which are to be introduced in order that its members, along with the members of the profession generally, are best placed to review and consider their potential impact.

3. Do you have any comments on our proposed programme of work?

It is difficult to discern from the Consultation what the complete programme of works is.

As to the proposed enforcement strategy, the LLS believes that the profession and the public alike would benefit from a published table of offences, along with the potential outcomes in terms of penalty and/or fine. Specifically, the LLS consider it would be helpful to provide worked examples of more complex scenarios, as oppose to those which may be deemed more straightforward on interpretation.

The LLS welcomes the introduction of a new code of conduct and the advent of more proportionate, less burdensome regulation. However, to remain relevant and to promote innovation the Code and the

enforcement of the principles it protects will need to be broader, more flexible than has been the case to date.

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

The LLS considers that the extent to which the SRA is prepared to support the profession to survive and compete as the provider of legal services and their methods of delivery diversify will have the greatest impact on the SRA success as a regulator and on the issue of whether the profession just survives or thrives.

Further, the LLS feels the introduction of the Solicitors Qualification Exam, along with the new Code of Conduct are an opportunity to make a positive impact on the existing profession and entrants into the profession and that the real proof of the pudding will be in the detail.

5. What have we missed?

The LLS considers that this is difficult to answer this question without reviewing the detail that sits behind the proposals outlined in the consultation.

The consultation importantly makes reference to the fact that the SRA have looked at its internal process and have made changes where necessary. As a provider of services to the profession, funded by the profession, the SRA should be continuously mindful of the need for efficiency in all aspects of the service they provide.

One area where change seems overdue is interventions. The LLS is aware of instances of interventions that have taken significant time to resolve; the LLS feel there should be better communication with the public and local law societies (to whom the public often turn) on the likely timescales of interventions and what is happening.

Furthermore, and on the wider issue of the separation of the regulation and the representation of the profession, the LLS wishes to see a strategy focused on matters of regulation with the SRA observing the importance of an open dialogue with the profession.

Response to SRA Corporate Strategy Consultation on behalf of Manchester Law Society

This response is submitted on behalf of Manchester Law Society ('MLS') members. By way of background, MLS has a membership of in the region of 3,000 solicitors and firms. It is one of the joint five local law societies along with Birmingham, Bristol, Liverpool and Leeds. MLS has an active COLP and COFA forum which meets regularly and this consultation has been discussed within that forum.

General Comments

Whilst we do not disagree with the proposed five strategic aims, MLS members have concerns about the methods/programmes by which the SRA will achieve these objectives. The devil will be in the detail but we are lacking the data/research and information to properly assess the basis for adopting these strategic aims and how these aims will be achieved. Greater transparency, openness and communication by the SRA with the profession will be key.

Whilst the MLS members appreciated that the SRA has consulted on its proposed corporate strategy for the first time, there is concern that their views will be ignored or not taken seriously. Previous experience of responses to the Looking to the Future consultation suggests that this might be the case. It is hoped that the SRA will take on board what we hope will be constructive feedback.

There are concerns amongst members from small firms and/or those outside of the main city centre that the regulatory and compliance burden placed on them is excessive. At the same time, those in larger firms also sense an increase in regulatory activity and scrutiny. The costs of managing risk and compliance is increasing and the members take little (indeed no) comfort from the indication by the SRA that the changes to the Handbook and Code of Conduct will make their regulatory obligations clearer, provide greater flexibility or will save them costs.

Furthermore, the margins in the provinces are very low and talent is being drained from the provinces into the big cities such that there is an increasing risk that such firms will not survive and high street firms will be 'killed off'. The impact that this will have on access to justice needs to be taken seriously particularly bearing in mind the importance attached by the SRA to 'unmet legal need'.

We address the questions in turn below:

- **Do you have any comments on the key factors we have identified in the legal services market and wider environment?**
- **What should be our key priorities over the next three years?**

Communication and transparency: we invite the SRA to re-open its Board meetings to members of the public and press. The SRA cannot be transparent and open without doing so.

Consistency of approach to enforcement: This is imperative so that all firms and individuals know what is expected of them and the likely sanction if they are in breach.

Useful toolkits/guidance – who will draft the strategies/guidance and what consultation will take place before finalising these? It is imperative that those working “at the coalface” have the opportunity to comment. The MLS COLP and COFA Forum would be more than happy to help by providing feedback on drafts.

- **Do you have any comments on our proposed programme of work?**

It is difficult to comment without knowing the detail of what is proposed in the programme of work.

In relation to Strategic Aim 2, the vague nature of the Code of Conduct will in the members’ views make it more difficult for firms but there is a concern that it will make it easier for the SRA to discipline. The enforcement strategy will need to be very clear and properly communicated.

In relation to Strategic Aim 3 and 5, it is important for relevant and timely information to be available and for the SRA to work better together and with others but this should not solely be related to helping people make informed choices in the legal services market. It needs to be extended to those working in the legal profession as well.

It is clear that the SRA is keen to focus on pricing clarity on websites etc. However, we fear the onset of price comparison sites will only lead to confusion for the public and the risk that only those who pay will be included in such tables. This can lead to abuse and would not be in the public interest.

- **What in our corporate strategy 2017 –2020 do you think will make the greatest impact?**

Whilst it is difficult without understanding the detail of how the SRA will fulfil its strategic objectives, we consider that if done properly with the SRA engaging more effectively with the profession, Aim 5 could have a significant impact.

Aim 2 – proportionality –the SRA will need to get the balance right between public protection and enforcement. Discipline for technical breaches where there is no risk to the public will lead to distrust of the SRA by the profession.

- **What have we missed?**

1. Small high street, sole practitioner/2 partner firms are disappearing. The profession is not attracting bright young lawyers to be owners of small practices and whilst the opening up of the market and the ability to practice as a solicitor in an unregulated business may well provide some new alternatives, the SRA appears to be focussing solely on this and ignoring the many thousands of small traditional law firms who provide a good service to the local community. This needs to be addressed as part of the issue of access to justice and unmet legal need. Bigger does not necessarily mean better!
2. Funding of cases and financial viability – there is a sense amongst members that the SRA is increasingly reacting to pressure from government and/or large organisations who may be potential defendants to litigation and favouring such organisations by issuing warning notices which, whilst important to make firms aware of the risks of breach, should not lead to an assumption that firms conducting certain types of cases

are guilty of a breach per se. By giving such an impression, firms may decide to stop acting for such clients which again could have an impact on access to justice/unmet legal need but also could seriously affect financial stability of firms. By way of example, the PPI warning notice could imply that any charge above 15% would not be fair to the client, notwithstanding that the firm may have fully explained the cost charge to the client who was happy to proceed. Firms conducting such work will have to either stop conducting such cases (it would not be profitable to continue) or risk facing having to justify their decision to continue to the SRA.



PENINSULA

Corporate Response

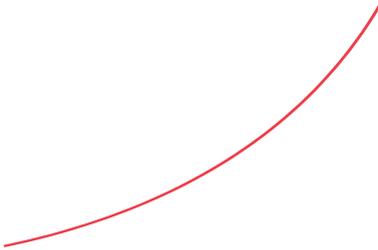
SRA consultation – Corporate Strategy 2017-20

Consultation Response on the Corporate Strategy consultation

September 2017

Success Starts Here

Table of Contents



Introduction.....	1
Comments.....	1
Consultation Questions.....	2
Q1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?.....	2
Q2. What should be our key priorities over the next three years?.....	3
Q3. Do you have any comments on our proposed programme of work?	4
Q4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?.....	6
Q5. What have we missed?	6
Conclusion	6

Introduction

This submission to the SRA is made on behalf of Peninsula Business Services Limited. This organisation is a UK consultancy firm providing advice and representation to employers primarily on employment law and health and safety. We provide support to over 32,000 clients. This support includes advising our clients at all stages of the employment relationship, acting for our clients during early conciliation, at the Employment Tribunal should proceedings be commenced against them and, where appropriate, at the Employment Appeal Tribunal.

A large proportion of our clients are small businesses and we also represent individuals who are treated as employers by virtue of employing their own carers through the Direct Payments scheme. It is essential when assessing a strategy to develop the legal services sector that particular consideration be given to those consumers who have limited resources or are vulnerable to ensure that there are no unnecessary obstacles to them obtaining appropriate legal advice in the manner that best meets their needs.

We are an unregulated firm within the Legal Services Sector and have recently been granted waivers allowing us to directly employ solicitors to carry out unreserved work for our clients without this being restricted to telephone advice as part of a telephone advisory service.

Comments

We welcome the opportunity to comment on the proposed corporate strategy. The proposed strategy recognises the changing legal market place and demonstrates an important refocussing of the role of the SRA, namely in ensuring that the professionals it regulates provide services in an appropriate way with the focus being on the needs of the service users rather than legal firms.

The solicitor brand is a powerful one and people seeking legal advice should be free to take that advice from a solicitor in a manner that best suits them but recognising that different circumstances require different types of support. This is part of the reason why there is a split between reserved and unreserved work. The traditional approach towards obtaining legal advice, where it is taken to deal with a specific, distinct issue does not suit some of the newer areas of law. Looking at the field of employment law, many small employers need ongoing support with the reassurance that there is a fixed cost no matter how often they use the service and with a view to a long term relationship that will assist them, in the manner most suited to them, with any issues that arise.

The role of the regulator is to ensure that those it regulates act properly and that consumers are in a position to make an informed choice. It is not to prevent consumers from seeking assistance

outside of the traditional models, or even from unregulated providers, if they so choose. That moves from regulation to protectionism and moves the focus away from the service user where it should rightly sit.

Widening the routes by which service users can access assistance from a solicitor, as well as the benefits of solicitors working with others to improve standards and ways of working benefits all. We welcome the recognition that consumers are able to assess information to decide what suits them best, given the various considerations they have to juggle, and should be free to choose for themselves how to access appropriate legal advice and support.

Consultation Questions

Q1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

The increased diversity within the legal services sector is going to continue and we believe that the SRA has correctly identified the requirement to be adaptive to the needs of that market so that it is led by demand and not supply. Where innovative and alternative methods of service delivery are identified they should be allowed to stand and fall on their own merit rather than being prevented from meeting their potential by unnecessary regulation.

The increased availability of information online and the changing nature of the world of work means that the way in which legal services are accessed is constantly being redefined. The evidence in the consultation paper shows that people are not choosing to engage with solicitors when they have a legal issue even though they believe a solicitor could be helpful. In some cases they may be seeking help from subject matter specialists, who may or may not include solicitors amongst those providing assistance. In other cases they are choosing to go it alone, as evidenced by the increased numbers of litigants in person.

The economic reality is such that many budgets, whether within households or companies, are tightly stretched and cannot accommodate unanticipated legal costs. While legal expenses can be prepared for in relation to planned purchases or matters of probate, for many people the funds are simply not available to pay for legal costs in relation to a dispute when it arises unexpectedly. It is also important to recognise the difference in a civil dispute between the party looking to bring legal action and the party seeking to defend it. The party looking to initiate action has more time to consider their options and may have more options for support available, such as contingency fee arrangements. When considering the factors that affect the use of solicitors, it is important to

recognise the different circumstances of those pitched into litigation against their will as opposed to those initiating it. Any statistical review of the use of solicitors should consider the type of dispute and whether or not the use of solicitors is evenly balanced between both parties.

The need for regulation to support the market, rather than control it, is a critical consideration. Similarly, allowing the market to provide access to solicitors outside of the traditional model, as well as opening up alternative routes to qualification and practice, will help to address any barriers to entry and practice, however unintentional, which currently exist.

Q2. What should be our key priorities over the next three years?

One of the key priorities should be on removing any unnecessary barriers that interfere with innovation or the provision of legal services by alternate means where that service is not restricted by the Legal Services Act. The proposed changes to the solicitor's handbook are a significant step in that direction although additional work may be needed to coordinate with the regulatory bodies in Scotland and Northern Ireland so that there are no unnecessary internal border issues.

Alongside this is the need to ensure that consumers receive a quality service and are able to determine who can provide them with the service that best meets their particular needs. Useful data on the available service, looking at the experience of handling matters of the particular type under consideration, is as important as the cost of the service and the period of qualification. The provision of useful and relevant information to allow for an informed choice is critical in ensuring consumers can identify the service that best meets their needs.

It is right that the regulator should be separate from the representative body of the profession as this avoids any potential conflict of interest. The separation of representation and regulation helps to avoid the appearance of bias and the temptation to put the needs of members above the needs of the sector. Representative bodies will, quite understandably, set out that their members, in their view, provide the best service to consumers and will be resistant to change that allows others to compete because it is not in their members' interest. This is why regulation of the sector needs to be separate in order to properly question conventional thinking, including the regulator drawing from those both within and outside the profession, and consider the issues objectively. One of the key functions as a regulator may be to ensure that the representative bodies are not creating barriers to replace any being removed.

Opening up the legal services sector so that solicitors can carry out unreserved work without needing to work for a regulated firm as well as widening the routes into the profession, so that it

is based purely on merit and knowledge rather than the ability to obtain a training contract, will help to ensure that the market and profession becomes more accessible, both in terms of membership and delivery. The underrepresentation of women and minorities within the profession in general and at higher levels in particular needs to be addressed.

Equally, the reluctance to engage solicitors by minority or vulnerable consumers needs to be reviewed more carefully to understand the cause of this and see if it can be meaningfully addressed. Targeted stakeholder consultation will help to identify the barriers in order to see how they can best be tackled.

Importance must also be given to ensuring that solicitors, in addition to acting in accordance with the handbook, are giving high quality advice. As such, attention should be attached to obtaining useful comparison data to allow consumers to make an informed choice. This must include working with the unregulated sector as well as regulated firms to avoid assumptions about the services that can be offered, the quality of that service or the protections available.

Q3. Do you have any comments on our proposed programme of work?

Strategic aim one correctly identifies the need to ensure a consistent, high standard within the profession. However, while improving the potential for entry into the profession from multiple backgrounds to enable greater diversity with a consistent standard for new entrants, there is nothing within this aim to ensure that those already within the profession meet the same standards.

We would suggest that there needs to be more effective monitoring to ensure that those already in the profession are providing a quality service as required. Although the handbook requires solicitors to act in the best interests of their client and to self-report any issues of a breach of the code of conduct, this requires solicitors to recognise when their service has been below the required standard. The quality mark scheme would be more effective if the quality of the advice itself was independently checked.

A more robust method of addressing this may be that any instances where costs have been awarded as a result of unreasonable behaviour in the bringing or conduct of proceedings, especially where that award has been against the representative, should be notified as open for review. This will allow a check to be done on the quality of the advice to see if the consumer was misadvised as to the strength of their claim or the reasonableness in proceeding with the course of action. This will help to maintain the high standards demanded on entry.

We fully support strategic aim two and agree that the handbook should be changed to split the responsibilities between the individual solicitors and those of regulated firms. We also agree with the removal of the prohibition on solicitors working in unregulated firms where the work they will be carrying out is unreserved. This ensures that the handbook requirements don't apply restrictions beyond those required by law.

Strategic aim three has the potential to be very helpful for potential consumers but only if it provides useful and relevant comparison material. Legal services do differ from markets where there is the purchase of a specific product, and the nature of the service required varies depending on the area of law. The difficulty in providing comparison data is in ensuring that consumers know what they need in order to make a value judgement. The complexity of the specific matter will help determine the best provider. Added to that is the potential difficulty in comparing different models of service, for example paying for legal assistance as and when needed compared to a longer term contracting relationship.

Firms will look to set themselves apart from their competition. Where they are offering similar services in a similar way then it is easier to compare the options and look at the balance between the range of services available and the price. However, the value of the service will depend on the individual needs of the consumer which will be affected by the nature of the issues that are likely to arise. Information about experience and specialisms within certain areas of law are often of more importance than length of PQE and consumers need useful information to assess what best meets their needs.

We agree with strategic aim four and that there needs to be a more consistent approach to firms operating across the UK, particularly in light of the increased use of technology moving assistance away from face to face and towards telephone, electronic and virtual communication. This is of particular importance to vulnerable consumers so that they can access the legal representative of their choice in circumstances where they cannot easily travel. The developments in information technology mean that geographical borders pose little if any impediment in relation to virtual trade and sector regulation should not inhibit that freedom.

We agree with strategic aim five. It is important to evaluate and improve on any service that is provided to identify areas for development. What is equally important is to obtain a wide range of views from service providers and consumers both within and outside the regulated sector. This will help to identify if regulation is assisting or impeding consumer choice.

Q4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

In the short term, the proposed change to the handbook removing the restrictions that go beyond those contained within the Legal Services Act will help open up the sector by allowing consumers a wider range of options in accessing solicitors, including within unregulated firms.

In the medium term, any effective comparison information that allows consumers to make an informed choice as to the legal provider that best suits their needs, with guidance on how to understand the information, will improve appropriate access to legal assistance.

In the long term, the change to the solicitors qualifying examination will help to address the issues of inconsistency in standards and remove some of the barriers for entering the profession to help create a more diverse and accessible profession.

Q5. What have we missed?

While the strategic plan looks at working with other regulators to improve access to comparison information it does not detail how work will be carried out with other regulators to improve access to the sector as a whole. The SRA is ideally placed to lead change across the sector and could take a more active role in working with other regulators across the United Kingdom to ensure that consumers have the same opportunities and choice in respect of their legal needs irrespective of where they are geographically.

Additionally, while the strategic plan identifies modernising the SRA's own IT systems it could take a more proactive role in offering guidance and support in developing access to legal services through new technology. At the moment, innovation comes from firms who then contact the SRA under SRA Innovate to progress these ideas. In addition to this the SRA could look to identify itself areas of need suitable for alternative solutions, from virtual offices to platform based solutions, and encourage development into areas where access to Legal Services is lower than expected.

Conclusion

We welcome the strategic plan which indicates a thoughtful and progressive approach to the legal services sector. This plan shows that there has been an objective assessment of the legal services market, both in how it has reached its current position and in the scope for future development and expansion.

It is right that the strategic plan looks to review existing regulation and remove any unnecessary barriers in the provision of services to consumers through alternate means. We welcome the recognition that the unregulated sector plays a valid role in the provision of unreserved services and that being unregulated is not synonymous with being of a poorer standard or is less suitable to a consumer's needs. We particularly welcome the move towards putting the choice of how to access a solicitor, or if indeed there is any need to do so, back in the hands of the consumer. This is a noticeable move from the view held in some parts of the legal sector that the consumer isn't capable of deciding what suits their needs.

A significant challenge will be developing suitable comparison information, particularly when legal services are offered in different ways or as part of a wider package of services. There would need to be clear and consistent definitions of the different categories so that any comparison would be useful. General guidance as to the impact of the differences, such as the extent of privilege, would be helpful to assist consumers in making an informed choice.

We would be happy to be involved in further discussions on this matter if we could be of any further assistance.

Ellen Singer,

Legal Services Professional Support Manager.

2. Your identity

Surname

Zdolyny

Forename(s)

Steven

Please identify the capacity in which you are submitting a response. I am submitting a response... on behalf of my firm.

Please enter your firm's name:: Riverview Law

3.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

A key factor is innovation through technology, especially AI. This could be given more weight due the potential to transform the delivery of legal services over the latter part of the next 3 years. New entrants into the legal services market, who do not need to be regulated by the SRA, will be able to invest heavily in technology and target both consumers and businesses with low cost self-service internet based solutions. This could have a major impact on the financial viability of many law firms, as they may simply not be able to compete on price or service delivery. This in turn could have a significant impact on the number of law firm failures and SRA interventions.

2. What should be our key priorities over the next three years?

Getting the SQE implementation right is critical. It is important to ensure that standards are not reduced and the SQE does not result in a flood of newly qualified solicitors (where existing paralegals see this as an easy/quick route to qualify).

Making sure the new Handbook is fit for purpose not just for now but takes account of technological developments, especially with AI.

Considering how the SRA can ensure there is a level playing field with the unregulated legal services providers, who do not incur the cost of regulation. Those businesses who are regulated need support to be able to compete without fear of falling foul of the SRA Handbook. Often the reserved activities may only form a small part of the law firm's revenues but the cost of regulation applies to the whole entity. Many regulated businesses do not want to split out non reserved activities into non regulated entities as that may undermine the core ethos of their long established business. One solution is for the SRA to consider only regulating that part of the firm that engages in reserved activities ie for the Handbook to apply only to the business undertaking those reserved activities and not to the part of the business undertaking non reserved activities.

3. Do you have any comments on our proposed programme of work?

More detail would be helpful but the programme of work looks good. As an example of more detail, with the Enforcement Strategy can a table of possible offences be produced, akin to that which was in the Question of Trust consultation document, with some worked up examples, to assist in firms self-identifying certain undesirable conduct from colleagues?

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

Solicitors Qualifying Examination and new Codes of Conduct for firms/regulated businesses and solicitors.

5. What have we missed?

The 5 new strategic objectives are perfectly sensible and we fully support them.

A few points for consideration below:

Considering how technology, especially how artificial intelligence may transform the delivery of legal services and the viability of many existing firms within the current market. For example, a recent study by Deloitte has predicted "about 114,000 legal jobs are likely to be automated in the next 20 years." The Law Society currently estimates 370,000 people are employed in legal services in the UK and so that's about one third of the profession that could be impacted.

Ensuring that ABS are on a level playing field with traditional law firms in terms of the regulations that apply to each. For example the disparity in fines enforced against the two different entities needs to be addressed and the SRA should lobby government for this change.

Ensuring the SRA has invested in the best technology to protect highly sensitive data from increasingly sophisticated cyber-attacks (as any hack of SRA records could have a massive impact on the SRA's own reputation and credibility).

Ensuring the SRA has focussed on its own compliance with GDPR.

Focus on SRA efficiency and continues improvement in process and service delivery is equally important as the external facing activity.

Regrettably, despite the very good work of the SRA in recent years, there is a still a widespread perception amongst many solicitors that the SRA is not listening to the concerns of the profession and is increasingly encroaching on the territory of The Law Society. We therefore particularly welcome objective 5 to 'work better together' as the more the SRA can focus on working in collaboration with The Law Society and the local law societies, the more likely we will achieve a better outcome for customers and the reputation of the profession.

The speed and communication around intervention activity could be looked at to see if this important activity could be improved.

A very minor point, but the SRA still invariably refers to 'firms' and although this still forms the majority of the profession, in its external facing documentation, it could also refer to legal services providers or businesses.



4 College Hill
London EC4R 2RB

Tel +44 (0)20 7329 2173

Fax +44 (0)20 7329 2190

DX 98936 – Cheapside 2

mail@citysolicitors.org.uk

www.citysolicitors.org.uk

Solicitors Regulation Authority
The Cube
199 Wharfside Street
BIRMINGHAM
B1 1RN

By e-mail: consultation@sra.org.uk

21st September 2017

Dear Sir/Madam

CLLS Response to the SRA Consultation on its Corporate Strategy 2017-2020

1. Thank you for the opportunity to comment on the SRA's draft Corporate Strategy for 2017-2020 and, as you requested on page 4 of the consultation covering document, we have some general views on your proposals and one or two specific points to raise.
2. First, we note that, for 2017-20, you propose 5 Strategic Aims, to replace the 4 Strategic Objectives in your 2014-2017 Corporate Strategy. It is difficult to see whether this change represents a substantive step, or is merely a presentational refreshment to bring the 2014-2017 strategy into the new era. It would be helpful to know why you have made this change, given that the SRA has been reporting annually against the former Strategic Objectives, and you are now proposing to reset the baseline for future reporting against the new Strategic Aims.
3. In one sense at least, the change must be substantive. The Strategy for 2014-2017 was fulsome in its treatment of the SRA's resources, with separate income and expenditure tables, successive year budgetary comparisons, and a helpful narrative of the means of bridging any funding gap. In contrast, the purposed Strategy for 2017-2020 is frugal on any resource narrative, and

wholly silent on financial numbers or detail. That would certainly make life easier when it comes to future reporting against your objectives for 2017 to 2020, but, without some explanation, this fails to match either best regulatory practice or better regulation principles.

4. Whether or not the move to 4 Strategic Objectives is a real or a presentational change, there is little doubt that some of the underlying issues remain the same. Why else would so much of the text from the 2014 -2017 Strategy have been cut and pasted, frequently unchanged, straight into the 2017-2020 Strategy? The most egregious example may be the Summary on page 12 of the 2017-2020 Strategy, lifted from para 3.22 of the 2014-2017 Strategy, but see also the following headings and paras from 2014-2017: 3.5, 3.6, 3.10, 3.11, 3.15, 3.19, and 3.21. Old wine in new bottles, perhaps?
5. Second, the Chair's Forward on page 2, and the 5th para of the Executive summary on page 3, make it clear that the future accessibility of legal services is a pre-eminent concern for the SRA. We agree that this is a major issue, but we believe that scoping the problem requires more work. For example, it may be true that 9 out of 10 members of the public and small businesses are not using legal services, but is that shortfall confined solely to the legal sector? Are lawyers any less accessible to the general public and small businesses than, say, accountants, professional insurers, marketers, tax advisers, or IT security advisers? One wonders whether the ICAEW or the Chartered Institute of Taxation are any more successful in regulating the accessibility of 'their' professions. In this regard, the CMA study was arguably too narrow in its scope to extrapolate its findings across the entire legal sector. The CLLS sees no shortage of legal services providers, at an acceptable price, in its part of the marketplace.
6. Third, we acknowledge your proposals for the rolling out the Solicitors Qualifying Exam, and we agree that a well-managed SQE could provide greater assurance of consistent standards at the point of entry to the profession. But we are saddened that your Strategic Aim makes no mention of your oft-declared intention that the SQE will raise entry standards. Our support for the SQE will remain lukewarm and conditional until the trend to higher quality can be detected. To that end, you might add "higher standards" to the list of factors (final para page 16) you will be monitoring throughout the delivery of SQE.
7. Finally, may we suggest that you reintroduce paragraph numbers to the 2017-2020 Corporate Strategy?

Yours faithfully

David Hobart
Chief Executive



The Law Society

**SRA consultation:
*Corporate Strategy 2017 - 2020: Consultation***

Law Society response

September 2017



Corporate Strategy 2017 - 2020: Consultation

A response from the Law Society of England and Wales

1. The Law Society is, in principle, supportive of the SRA's strategic aims. However, the real challenge, which this response focuses on, is how to apply each aim in practice to best achieve the regulatory objectives set out in the Legal Services Act 2007.
2. As context to this strategy, we would like to make some overarching points about the overall pace of change, regulatory uncertainty, and the resulting impacts on the solicitors' profession and its clients. The profession is currently facing substantial uncertainty, as the draft strategy acknowledges. This includes the uncertainty created by Brexit and other regulatory changes such as the introduction of the General Data Protection Regulation (GDPR).
3. Market-driven and technological developments are also changing both the way in which the profession delivers services and the expectations of clients. The regulator has a role to play in helping the profession in these areas, for example by creating appropriate conditions for firms and solicitors to be as flexible and client-focused as possible. The Law Society also has a role to play in assisting our members directly and in thought leadership in the future.
4. At the moment, however, there is a danger that much of the uncertainty facing solicitors and firms is being driven by the actions of the regulator and the cumulative impact on the profession is not being assessed. There is a risk that constant regulatory change has an economic impact, as firms and solicitors adjust to and implement new requirements. Before introducing further changes, we would encourage the SRA to consider not just the individual impact of a new proposal on a firm or solicitor, but the cumulative impact of all the changes that firms and solicitors have to deal with.
5. We set out below our further comments under each of the strategic aims.

Strategic Aim 1: We will set and apply consistently high professional standards for the individuals and firms we regulate and make sure they are appropriate to meet the challenges of today and the future

6. We agree that setting professional standards at a consistently high level is an important aim, however the focus for the SRA as a regulator should be setting the regulatory rules to ensure high *minimum* standards.
7. The implementation of the Solicitors' Qualifying Exam (SQE) will be key to achieving this objective. The standards that the SRA sets must be as transparent as possible, as must the requirements for individuals to achieve those standards. In our recent response to the SRA's consultation¹ on the SQE regulations, we emphasised that the SQE gives the SRA the opportunity to set high and consistent standards for work experience. To maintain consistency, any subjectivity within the rules must be kept to a minimum.

¹ <https://www.lawsociety.org.uk/policy-campaigns/consultation-responses/a-new-route-to-qualification-law-society-response/>

8. As the SRA proceeds with the Handbook review, it will be important not only to maintain high minimum standards but also to ensure that the behaviours required to meet those standards are clearly understood by the profession. The onus is on the SRA as regulator to clearly communicate to the profession the required standards and behaviours, and to do so in a timely manner. The clearer the regulatory rules are, the more likely we are to see consistency in their application. Consistency is important because it gives clients the reassurance that when they see a solicitor, they will receive a high standard of service, backed up by regulatory protections.

Strategic Aim 2: We will make sure our regulatory requirements are proportionate, providing solicitors and firms the flexibility to innovate and better meet the needs of the public and businesses, while maintaining appropriate levels of public protection.

9. Making a judgement about what is proportionate requires balancing client protection on the one hand, with flexibility and innovation on the other. We would argue that where a trade off must be made, the SRA should ensure public protection is paramount, rather than innovation and flexibility. Some of the SRA's recent initiatives have placed the pursuit of deregulation ahead of ensuring client protection. Client protections (e.g. professional indemnity insurance, legal professional privilege, conflicts rules and access to the Compensation Fund) must not be lightly set aside.
10. To help ensure a better balance between flexibility and public protection, we would recommend that the SRA explicitly addresses the following questions when proposing any regulatory change:
 - a. What is the precise problem that the proposed change seeks to address? Other regulators adopt analytical frameworks, for example a Theory of Harm, to help bring rigour to their thinking.
 - b. To what extent will the proposed solution mitigate this problem, accompanied by estimates of scale of impact?
 - c. What risks and costs will this change introduce for the profession, clients, and other participants in the legal system? This should include the impact of transitional costs caused by rule changes.
 - d. How does this affect the cumulative regulatory burden faced by practitioners?
 - e. How can the answers to the above questions be clearly communicated to the profession so that solicitors are confident of the rationale behind and impact of changes?
11. The Better Regulation Executive provides a widely used and accepted template for assessing the impacts of regulatory changes.² While the SRA is rightly independent from Government, we believe that the template provided by the Better Regulation Executive represents best practice in terms of ensuring a robust evidence base for regulatory changes.
12. As an example of how this approach could work, we will consider the proposal to allow solicitors to deliver non-reserved services in unregulated entities. The SRA

² <https://www.gov.uk/government/publications/impact-assessment-template-for-government-policies>

has cited the aim of addressing unmet legal need as a key objective of this reform. But there has been no quantitative analysis of whether the proposed change is a proportionate way of achieving this objective, or whether it would come with an unacceptable loss of client protection. In order to assess whether it is a proportionate regulatory change, the following would need to be understood:

- a. the likely number of solicitors who would choose to make use of this new option;
- b. the number of consumers who currently do not seek professional legal support, but who would do so as a result of the changes;
- c. the risk to consumers as a result of client protections being removed, which would include discussion of the likelihood of consumers understanding these changes;
- d. the risk that public trust in the legal system could be reduced if consumers unexpectedly find themselves without regulatory protections, and what impact this would have on people's willingness to access legal services in the future;
- e. a comparison of the costs and benefits, so a conclusion can be drawn about where the proportionate level of protection sits.

13. We fully acknowledge that the above approach would need to rely on estimates and assumptions, but it would still be a useful exercise. It would allow for more effective scrutiny of decision-making as well as better policy making. Ultimately this should increase trust. In future, we hope this approach will become the norm.
14. Innovation and waivers is another area where public protection must be balanced against flexibility, as we emphasised in our response to the recent consultation.³
15. We welcome innovation in the legal sector. Innovation is the result of using evidence and insight to create positive change more easily than was previously possible. Ad hoc approaches to change or flexibility are not in themselves innovation.
16. There is also a clear distinction between encouraging solicitors and firms to pursue innovation in a way that results in a more competitive offering which better meets client needs; and the false pursuit of "innovation" by allowing crucial client protections to be discarded and/ or diluted. The former approach, if transparently and fairly applied across the sector, can benefit both the profession and clients. The latter approach is likely to result in client confusion and trust in the profession being eroded.

Strategic Aim 3: We will increase the availability of relevant and timely information to help people make informed choices in the legal services market.

17. The solicitors' profession and the Law Society support the aim of getting the best quality information to existing clients and prospective clients, in order to help them make informed choices. As the SRA considers how to implement the recommendations in the Competition and Markets Authority report, we continue to argue that market-led solutions are the most proportionate way to address this

³ <http://www.lawsociety.org.uk/policy-campaigns/consultation-responses/sra-consultation-on-rule-waivers-law-society-response/>

particular issue. If regulation is introduced, we hope that it is not too rigid in its approach, and allows for the diverse needs of clients to be met with flexibility.

18. Getting the right information to clients, at the right time, is something the profession is committed to, for the simple reason that meeting clients' expectations makes good business sense. To support our members in this, the Society published a Transparency Toolkit⁴ last year, which brings together our resources and guidance on this topic.
19. Before regulation is introduced in this area, it will be important to make good use of consumer research to understand what information clients value, how they search for it, and to establish when the point of 'information overload' might be reached.

Strategic Aim 4: We will make sure that our regulatory arrangements work as effectively as possible for the public, businesses, solicitors and firms in the context of constitutional developments within the UK and any new relationship with the EU.

20. It is encouraging to hear that the SRA is advocating the benefits of the current cross-border arrangements. These arrangements have allowed English and Welsh firms to grow and practise around the world, and overseas solicitors to practise in England and Wales. The current EU lawyers' framework has proved to be successful and we support its retention.
21. As future arrangements become clearer and the cross-border arrangements are reviewed, we ask that the SRA engages with the profession. The SRA has already started doing this, for example through its recent SQE regulations consultation which we responded to, and we will continue to engage with any future work.

Strategic Aim 5: We will work better together and with others to improve our overall effectiveness, our responsiveness, and the delivery of our regulatory functions

22. We support any work that will result in improvements to the effectiveness, responsiveness and delivery of SRA regulatory functions.
23. The SRA's aim to continue focusing on the quality of regulatory decisions makes sense. The SRA plans to make improvements in this area through the new Enforcement Strategy, and guidance and training for decision makers. We would appreciate further detail in each of these areas as it becomes available.
24. To build on this focus, we suggest that the SRA amends its key performance indicators (KPIs) to better reflect quality measures. The current KPIs as outlined in the 2016-2017 Business Plan⁵ focus largely on the speed of responses to queries and applications, and the timeliness of decision making. It is important that decisions are made in a timely manner and that this performance is monitored. However there are risks with the current KPIs in that, if the speed of a

⁴ <http://www.lawsociety.org.uk/support-services/advice/articles/price-and-service-transparency-toolkit/>

⁵ <http://www.sra.org.uk/sra/strategy/business-plan/sra-business-plan-2016-2017.page>

decision is the prime indicator of success, less attention may be paid to the quality and consistency of the decision.

25. We believe the SRA (and the profession) would benefit from a greater focus on the quality and consistency of decision making beyond timeliness. We encourage the SRA to be more ambitious in its performance measures and are willing to engage with the SRA to develop these. We provide below some illustrative examples of the types of issues that could be adopted and incorporated, and are happy to provide further examples:
- a. allegations made on investigation or by supervision which are not pursued to adjudication;
 - b. number of cases where the SRA decides that “reconsideration” is required;
 - c. allegations dismissed by the SDT;
 - d. appeals upheld by the SDT.

Further issues

26. We provide comments below on two further issues that apply to much of the Corporate Strategy.

The importance of trust

27. Trust in the regulator is an important issue that underpins much of the Corporate Strategy.
28. For a system of regulation to be effective, it must work for the profession and consumers. But most importantly, it must serve the public interest. From the public perspective, a proper system of regulation ensures that the public are protected by clear and consistent professional standards and regulatory protections. The better these standards and protections are understood, and the more robust the protections are, the more willing the public will be to seek advice from a solicitor and to get their legal problems resolved. The SRA therefore plays a critical role in building trust between the solicitors' profession and the public.
29. The next three years provide an opportunity to build trust between regulator and regulated community. In terms of policy changes, this trust will come if the profession can see that the regulator is listening to the responses that are submitted to consultations. We do not expect that the SRA will always agree with the views of the profession. However it is reasonable to expect a degree of modification in the face of consistent and widespread feedback from stakeholders. At times (for example on the proposal to allow solicitors to deliver non-reserved services in unregulated entities), our members have felt that their views and evidence have been dismissed by the SRA. We would also ask that the SRA make its decision-making processes as transparent as is possible in order to engender trust.
30. In terms of investigation and enforcement, trust can only be built if the profession is reassured that the SRA's decision-making, at a working level, is rigorous and fair. This will be of increasing importance as the SRA moves away from rules-based regulation towards a more risk-based approach. The SRA needs to ensure that the individuals making decisions on cases are appropriately trained and qualified. Where investigations are carried out, it is crucial that the arguments put

forward by respondents are considered fairly and that there is no impression created that there is a presumption of wrongdoing. Achievement of KPIs and targets must not come at the expense of serving the public interest.

31. The SRA is moving further away from a strict, rules-based system of regulation and continuing its trend of more outcomes-focused regulation. If this process continues there is a possibility that solicitors and firms will take a risk-averse approach in complying with the rules, which would increase compliance costs. This unintended consequence can only be avoided if the SRA's approach to enforcement and investigation encourages trust from the regulated community.

Encouraging an independent, strong, diverse and effective legal profession

32. The Legal Services Act 2007 requires regulators to act in a way which is compatible with the regulatory objectives set out in section 1. The SRA's Corporate Strategy seems to touch on most of the regulatory objectives, however there appears to be one notable omission. The objective of "encouraging an independent, strong, diverse and effective legal profession" does not appear to be covered by the SRA's aims or planned work. We would appreciate if the SRA could include or incorporate this objective in its strategy; or if it is in fact addressed, draw our attention to the sections which cover this.

Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref CS/01093/17

Enid Rowlands
Chair of the SRA Board
The Solicitors Regulation Authority
The Cube
199 Wharfside Street
Birmingham B1 1RN

Jane.Tandy@sra.org.uk

22nd August 2017

Dear Enid

I am writing in response to your letter of 27 July addressed to Mick Antoniw AM, the Counsel General, as justice policy falls within my remit.

I welcome publication of your draft Corporate Strategy 2017- 2020 and wish to make the following general comments.

Your proposals to work closely with the law schools in Wales, the Welsh Government, the National Assembly and other institutions in Wales are welcome. I believe it is also essential that English law schools include Welsh law in their academic and professional courses to ensure that students understand the UK's devolved governance and the growing divergence between the law in England and the law in Wales. This will ensure that solicitors from Wales who train in England are not disadvantaged when returning to Wales to work. It follows that consideration of the differences between the law in Wales and the law in England should form part of the Solicitors Qualifying Examination for all aspirant solicitors.

I welcome your proposals to increase collaboration over the next three years and suggest there may be opportunities to share with my officials those aspects of research which relate specifically to the Welsh context.

It would be helpful to know how you see the Solicitors Regulation Authority supporting solicitors in using the Welsh language and in using online court services delivered through the Welsh language. As this will be a growing area of work, I suggest it requires your consideration at this early stage of development of the service.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Carl.Sargeant@llyw.cymru
Correspondence.Carl.Sargeant@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I trust that these suggestions help inform your emerging Corporate Plan and look forward to receiving a copy of your final document in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carl Sargeant', with a stylized flourish at the end.

Carl Sargeant AC/AM

Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children

Corporate Strategy 2017 – 20 Consultation Response

I do not wish my name or details to be given or provided concerning this response. This is because the comments are about the corporate strategy and not myself. The comments may merely be attributed to a solicitor not practising and retired.

1. Do you have any comments on the key factors we have identified in the legal services market and wider environment?

To use a modern phrase: It is considered that the SRA is good at talking the talk but fails to walk the walk

2. What should be our key priorities over the next three years?

The SRA should focus on the improvement of the performance of its complaints procedure, being one of its primary functions and duties

3. Do you have any comments on our proposed programme of works?

It should primarily include an improvement of the SRA's complaints procedure

4. What in our Corporate Strategy 2017-20 do you think will make the greatest impact?

Nothing unless it includes an improvement of the SRA's complaints procedure

5. What have we missed?

5.1 The reform of the SRA's complaints procedure.

5.2 The complaints procedure does not include any right or entitlement for a complainant to appeal a decision and a review is at the absolute discretion of the SRA. Whilst there is a three stage complaints procedure this only deals with the administrative manner in which a complaint has been dealt with.

5.3 I have no faith in any suggestion that the administrative complaints procedure is used by the SRA to determine whether or not there has been any mishandling and all supporting information has been taken into account. There should be a basic right of appeal by a complainant if it is considered that the decision is wrong in law, practice or procedure.

5.4 Fully detailed and justified reasons in law should be given for a decision by the SRA which should not be spurious or meaningless comments made on the basis and with full knowledge that a complainant does not have the right to require a review of the decision.

5.5 The SRA acts to regulate highly qualified professional people who work with complex facts, details, circumstances, requirements detailed laws, rules and regulations. Those regulating such people should be at least as qualified as those that they regulate. It is pure crass for a regulator to dictate how a person should be qualified or the rules that they must observe and perform in the performance of their professional duties if they do not have any knowledge or experience of the relevant circumstances to which they apply themselves.

5.6 Staff at the SRA must be able to understand and interpret the details and circumstances of complaints referred to them, know, understand and interpret the law concerning the same and know, understand, interpret and apply the rules to determine whether or not there has been any potential breach of the rules or fitness to practice issues. There is no point whatsoever in a matter being referred to a regulator if it does not know, understand or appreciate and cannot interpret the law, facts, details and circumstances of a matter referred to them. It would, in such circumstances, be those who are not legally qualified regulating those who are fully qualified. It is considered that this would be purely on an economic basis as those who are fully qualified and have the relevant knowledge and experience would cost more to employ than unqualified staff who could simply make a decision knowing that it cannot be questioned, appealed or reviewed at the request of the complainant.

5.7 If the SRA does not employ qualified staff for its regulatory work, it is considered that such staff should at least be required to pass the SQE paper concerning the same and the papers concerning the subject matters that they deal with at the same pass rate as that required for the examination or, if there is no such paper, that a paper should be set by a body such as the Law Society and that staff in such role should be required to attend continuing education courses concerning the same in the same way as professional staff. The SRA regulatory staff should be required to do what the SRA requires those that it regulates to do concerning the regulatory matters that they deal with.

5.8 There should be regular staff appraisals concerning regulatory staff fitness and proficiency.

5.9 Staff failing to make correct regulatory decisions without justification should be subject to disciplinary action. Staff in professional practice who make mistakes negligent or otherwise have to answer for the same and the same should apply to regulatory staff.

5.10 All correspondence should be replied to expeditiously and in a full and detailed manner and not simply on the basis that the SRA will contact a complainant again if they feel that there is any need to. Professional procedures should be adopted on the same basis as that required of the professionals who the SRA regulates.

5.11 Staff at the SRA are paid a salary to do a proper, effective and efficient service in their employment and this is required to be done and to be seen to be done.

5.12 Matters such as the conduct rules have existed for many years and it is considered that they form no more of a challenge to those qualified than the laws, practice and procedure that they are required to know in the performance of their professional duties. The question is whether revision to reduce the conduct rules is for the purposes of the SRA rather than the profession. Will the new conduct rules merely be regarded or applied as vague and imprecise and therefore subject to inconsistency and void for uncertainty?

5.13 Restrictions on contact should not be used merely as a means of avoiding continuing correspondence with a complainant having specific regard to correspondence with continues to raise matters regulated by the SRA. This again forms part of there being no right to appeal a decision.

5.14 Firms regulated by the SRA are legally answerable to their clients and regulatory answerable to the SRA. The SRA is not legally or regulatorily answerable to anybody except Parliament and this is considered to be unacceptable. The SRA performs a statutory function and duty and failure to be legally responsible for the same may lead to complacency and possible irresponsibility. If there is nobody to be answerable to and nothing to be responsible for, it is considered that this may lead to a lack of responsibility for matters dealt with and this is considered to be totally unacceptable. The SRA should be responsible to members of the public where it is shown that it has acted wrongly, incorrectly or inappropriately in the performance of its statutory functions and duties.

5.15 In pursuance of the above, members of the public should have a right of action against the SRA in the courts or other appropriate authority to determine whether it has acted wrongly, incorrectly or inappropriately in the performance of its statutory functions and duties and, if so, an award of damages should be available to the claimant.

5.16 Transparency is a word used by the SRA but would seem to have very little application in its workings and decision making, some examples of which are detailed above. The fact that members of the public did not attend board meetings is irrelevant to the fact that they should be open to them. Also, as the saying goes, if people don't know people won't go and one of the basic questions is how, where, when and on what basis were board meetings made known to the public. It is considered that it is a question of whether such notice was sufficient rather than using it as a reason / excuse for now holding the meetings behind closed doors. Board meetings are held regardless of whether or not members of the public are in attendance. A reporter / representative from the Law Society Gazette would always appear to be in attendance and any matters considered to be of relevance are reported by them which then means that, in effect, all readers of the Gazette attend. This would appear to be the SRA amending its rules to serve its own purpose and negates any contention of transparency concerning the same.

5.17 The same rules, principles, procedure and policies should be applied to all persons regardless of their standing or status. If it is considered appropriate to provide information or updates to the government, the same principle should apply to all others. It should not be a regulatory procedure for some and a different regulatory procedure for others.

5.18 There must be consistency in the actions by the SRA so that what applies in one set of circumstances also applies in other same or similar circumstances in order that there is consistency in decisions made and an allowance should not be made in one circumstance but not in another.

5.19 For openness, transparency, consistency and reference purposes full details of all regulatory decisions made by the SRA should be published.

5.20 The primary function and duty of the SRA is to protect members of the public. Every person is a member of the public and the function does not therefore merely apply to groups or a class. A member of the public is likely to be somebody without any legal knowledge or experience. It should not therefore be necessary for a complainant to have to provide the SRA with legal information, advice or contentions or what is considered to be the breach of the relevant rule or otherwise. The SRA must be able to interpret the facts, details and information and know and apply the relevant law and practice rules in order to determine whether it is necessary for any regulatory action to be taken.