

# Regulation Report

## The SRA Handbook proposals – a blueprint for a splintered profession?

**The SRA consultation “Looking to the future” launched on 1 June includes a section on “Allowing more flexible practice”. The intention is to permit solicitors to work for unregulated entities providing unreserved legal activities to the public. The solicitor would be regulated as an individual but the clients of that individual solicitor would be unlikely to have the benefit of professional indemnity insurance, access to the Compensation Fund and the Legal Ombudsman, nor would those clients be able to claim legal professional privilege.**

On the other hand, a solicitor working in a regulated entity whether delivering reserved or unreserved legal activities to the public will continue to be required to provide the usual client protections to clients. These may well be the hallmarks of our well-respected profession but they do inevitably add to the cost of legal services.

But what of the unsuspecting members of the public? How can they judge whether a licensed conveyancer is better than a legal executive for a conveyancing transaction, or whether an unqualified employment adviser is better than a solicitor or direct access barrister for employment advice?

Is price the main differential? It is, regrettably, often the only factor that the lay public can rely upon in choosing from the existing range of legal advisers.

To add to the current confusion, the SRA’s proposals, if accepted, would result in two different levels of solicitor – one that would provide client protection measures and one that would not. The inevitable consequence would be that the solicitor in the regulated entity would be more expensive than the solicitor in the unregulated entity. Both, however, would be entitled to describe themselves as a “solicitor”.

Enid Rowlands Chair of the SRA Board is heralding these changes as “freeing up solicitors to provide some legal services outside of regulated firms. This change is designed to benefit the public by allowing solicitors to work in the emerging “alternative” legal market and provide high-quality services.”

Are the aims of benefitting the public and providing high-quality legal services achievable? Or is it just another example of spin?

In support of these new proposals for cheap legal services, the SRA relies upon research that “many people and small businesses still cannot access the legal advice that they need, at an affordable price”

To reduce cost further, the SRA’s preference is that solicitors working in these alternative legal services providers should not be required to have personal professional indemnity insurance. There would be no need for professional indemnity insurance so that solicitors are operating and competing on the same terms as others in this market. The SRA emphasises that it would also mean that the public could access affordable services, as insurance costs can be high.

So, what is the advantage for solicitors in delivering any unreserved legal activities through a regulated entity? It may be more profitable to split off the unreserved work now and maintain a much smaller entity for the reserved work.

This, in turn, might well result in a smaller number of regulated firms. The next question must be - do we need solicitors to undertake the unreserved work or can we manage with an entire team of non-solicitor unregulated staff? A reduction in the number of solicitors would follow.

We must not permit the SRA to divide and fragment the profession in this way. It becomes impossible to regulate. It becomes impossible to market as a homogenous profession both in the domestic and international marketplace. It also becomes impossible to maintain the client protections that are the very foundation stones of our profession.

The SRA is a regulator. In trying to reduce the cost of legal services and manipulate the legal market, it could be described as exceeding its jurisdiction. The SRA would no doubt contend that protecting and promoting the interests of consumers and promoting competition are two of the eight regulatory objectives required of the SRA by the Legal Services Act. However, these two objectives should not be allowed to supplant the most important objective under the Act which is protecting and promoting the public interest. The public interest must be paramount.

The SRA needs to confine itself to maintaining high standards and exerting effective disciplinary measures in the interests of the profession and clients. If it can achieve those aims successfully, then it will have complied with the objectives imposed by the Legal Services Act.

**The consultation ends on 21 September – please have your say.**

**<https://www.sra.org.uk/sra/consultations/code-conduct-consultation.page>**



**Jayne Willetts**  
Solicitor Advocate  
**Jayne Willetts & Co**  
Specialists in  
professional regulation

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Jayne Willetts is also a director of Infolegal - a law firm compliance and risk management consultancy - [www.infolegal.co.uk](http://www.infolegal.co.uk)