

SRA Consultation response - Corporate Strategy 2017–20

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.

SRA Consultation response - Corporate Strategy 2017–20

(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.

SRA Consultation response - Corporate Strategy 2017–20

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.

SRA Consultation response - Corporate Strategy 2017–20

- 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.