

LAW SOCIETY GAZETTE

Compliance overload is stifling law firms



Thursday 01 September 2011 by **Ronnie Fox**

The chair of the Solicitors Regulation Authority wants the scope of reserved legal activities to be *extended*. He says that broadening the definition of legal activities regulated by the Legal Services Act will protect consumers. He cites the danger of unregulated will-writers.

The definition of reserved activities is indeed narrow. Much of the work of most law firms falls outside the definition. They would prefer it to remain so. The constantly increasing burden of regulation to which solicitors are subject might prompt some to hive off non-reserved activities into separate organisations not regulated by the SRA.

Over the years I have tried to stay on top of the rules and guidance issued by the Law Society, the Solicitors Complaints Bureau, the Legal Services Board, the Legal Ombudsman and the SRA. I was an early adopter of formal engagement letters and terms of business. Today, my firm's standard form engagement letter covers two pages and our terms of business an additional 11 pages.

These documents are long and detailed because we attempt to address every legal, regulatory, ethical and professional requirement. Even the font size and spacing comply with a Law Society practice note.

The longer our terms of business become, the less likely it is clients will read them. Recently I needed to download a software update. First I had to tick a box confirming that I had read and understood 62 pages of terms and conditions. How long before solicitors' business terms go the same way?

Before 6 October, firms will have to change their letterhead, email signature blocks and websites to replace 'Regulated by the Solicitors Regulation Authority' with 'Authorised and regulated by the Solicitors Regulation Authority'. Where is the public benefit in that?

This year the SRA requires law firms applying for recognition renewal to provide a detailed analysis of complaints. The SRA's announcement follows a LSB 10-page paper and research

on first-tier complaints-handling summarised in a 65-page LSB report. Nothing is said by the SRA about the costs.

The different bodies previously or currently responsible for complaints-handling have a great deal of information about what prompts clients to complain. That would be a better place to start.

The same SRA announcement ominously refers to increasing the level of significant new information that it will be seeking. The costs of compiling this information and the subsequent SRA analysis will initially fall on the profession, and ultimately on the consumer. Will there be a proportionate public benefit?

Next year, law firms will be required to survey workforce age, gender, disability, ethnic group, religion or belief, sexual orientation, caring responsibilities and socio-economic background. Details are in a 58-page LSB paper. Firms are expected to publish results relating to most categories. Members of a law firm are entitled to refuse to participate. Most of us in the legal profession value our right to privacy. Will this time-consuming and expensive exercise generate sufficient information to be statistically valid?

Much 'legal' business is already conducted by organisations not controlled by solicitors. They operate successfully and ethically free from the dead hand of excessive regulation. Employment law is the largest area of practice of my own small firm.

Our competitors include:

employment lawyers who are not qualified barristers or solicitors;

Mentor, part of Royal Bank of Scotland, which offers comprehensive employment law advice to employers (RBS are bankers to many law firms); and

Citation plc, which provides employment law advice to 6,000 businesses from four offices (the chief executive is an employed solicitor).

The SRA is part of the Law Society. That just about enables solicitors to claim to be members of a self-regulating profession. The Society should campaign for regulation with a lighter touch, as well as continuing its efforts to promote the solicitor brand.

Unless the SRA reduces the burden of regulation on solicitors' shoulders, an increasing proportion of the legal work in England and Wales will be done by those who are neither solicitors nor regulated. Redefining reserved services will not help consumers.

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