



RESPONSE OF LinC (formerly the Inhouse Charity Lawyers Group) to the Legal Services Board discussion paper entitled "Are regulatory restrictions in practising rules for in-house lawyers justified?"

Background:

LinC is a membership body whose membership consists of qualified lawyers working in-house in UK charities. It has over 250 members, representing over 100 charities.

LinC would like to respond to the questions for interested parties raised by the Legal Services Board in its discussion paper "Are regulatory restrictions in practising rules for in-house lawyers justified?"

Questions for interested parties:

4. What is your experience of current arrangements for in-house lawyers?

In summary, our experience is that there is considerable confusion in regard to the legal requirements as to who is able to provide legal advice in an in-house role. Further, it appears that qualified solicitors, who hold a practising certificate, are actually more regulated than individuals who hold no legal qualifications, but nevertheless in practice give legal advice. We do not think that the regulations for solicitors are over burdensome, but would welcome greater policing of unqualified individuals.

As a body representing those in-house lawyers who work in charities, we are conscious that there are a large number of UK charities who are not able to employ an in-house lawyer and for whom external legal fees are prohibitive. We would like to work with the Legal Services Board and the SRA to be able to offer our expertise as in-house charity lawyers to such organisations.

Specifically:

1. We feel that the current confusion re the qualifications necessary to provide in-house legal advice will serve to undermine the legal profession. The expertise and knowledge of qualified lawyers should be recognised and valued by the public.
2. It is not entirely clear when an in-house solicitor is required to hold a current practising certificate. We are of the opinion that all practising solicitors should hold a current practising certificate, but that there should possibly be more relaxation in the level of fee for small organisations and in particular charities, who are not for profit organisations.
3. Current practices within the in-house profession put the public at risk - there are so many different legal titles in use which suggest that individuals are legally qualified when they may not be. We would welcome greater clarity and regulation in this area, so that it is clear to a third party if an individual is legally qualified or not.

4. It is increasingly common for organisations to employ non-qualified legal advisers, but it is only up to the individual employer how they are supervised. Again we would welcome greater clarity and regulation in this area.
 5. It is our experience that the regulations concerning EU qualified and non-EU qualified lawyers are unclear and rarely enforced.
 6. Our members would like to be able to provide pro-bono advice to other charities with which they are involved and who may not be able to afford to employ an in-house legal presence. We would welcome the relaxation of rules in order to be able to do so.
 7. We are keen for solicitors and their clients to continue to benefit from legal professional privilege, but are aware that when this is applied to an in-house role, there is again confusion as to the qualifications required to be able to benefit from it and in particular whether a current practising certificate is needed.
5. What, in your view, could be improved?
1. The regulations governing Solicitors are found in a number of different places including SRA practice guidance. We would welcome the consolidation of these regulations.
 2. The list of “restricted activities” should be reviewed, together with what it means in practice to be providing legal advice and the regulation that attaches to this latter role.
 3. Given that an in-house lawyer has one client, the regulations for in-house lawyers should be capable of being streamlined and clear to all.
 4. We appreciate that the SRA have provided guidance in regard to legal titles and who may use them, but this does not seem to be widely known.
 5. Great clarity on legal professional privilege for in-house lawyers.

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