

## Approach to regulation and its reform

### Policy statement

---

7 May 2014

#### Foreword

The SRA regulates solicitors and firms to ensure that they properly fulfill their obligations to the court and to the proper administration of justice and to protect consumers.

In spite of all of the significant changes in the legal services market, that core purpose of regulation has not changed. Principles that capture that purpose are central to the regulatory framework, established in 2007, in the Professional Principles:

- independence and integrity;
- proper standards of work;
- acting in the best interests of clients;
- complying with the duty to the court to act independently in the interests of justice; and
- keeping client affairs confidential.

These principles form the very core of our regulation but in deciding how we will regulate and what requirements we place on individuals and firms there are a wider range of factors for the Board to consider. This paper is intended to provide clarity about how we set our regulatory requirements to deliver the purpose for which we have been established. We believe that clarity about the Board's approach will help solicitors, firms and all of those affected by our regulation to put individual reforms into context, understand the framework within which they have been considered and have greater confidence in the SRA's future direction.

The Board is also announcing the next stage of our reform of regulation and this paper provides a clear framework and rationale for this programme which will:

- remove unnecessary regulatory barriers and restrictions to enable increased competition, innovation and growth to serve the consumers of legal services better;
- reduce unnecessary regulatory burdens and cost on regulated firms; and
- ensure that regulation is properly targeted and proportionate for all solicitors and regulated businesses, particularly small businesses.

Details of this programme are set out in this paper. Our aim is to make sure we have a system of regulation that delivers against the core professional principles and which enables good, committed, lawyers and firms to meet the diverse legal needs of an increasing number of consumers. I believe this programme will help to achieve that and do so in a way that is consistent with the government's challenge to all legal services regulators to, "reduce regulatory burdens on practitioners in the legal sector, and promote innovation, competition and growth in the legal services market."

Charles Plant

**SRA Chair**

---

## **Purpose of this paper**

- 1.1 The purpose of this paper is to provide clarity to those regulated by the SRA, other stakeholders and to the legal services market more widely about the SRA's role, its approach to regulation and its strategic priorities. It also sets out, within that context, details of a number of the major programmes that will be delivered to improve its regulation in the immediate future. It is a paper designed to facilitate and provide context for significant change in the way in which the SRA regulates.
- 1.2 At a period of rapid evolution in the market and rapid change in the political, economic, social and technological environment within which it operates, the SRA considers it important to provide clarity of purpose and direction to help all those affected by its regulation to have the best possible information to assist in their own planning and development.
- 1.3 There is also clearly a desire for the SRA to provide greater clarity about its approach to regulation. For example, the recent report of the Independent Comparative Case Review recommended that the SRA be clearer about its regulatory approach and do more to engage with stakeholders about it. This policy statement is designed both to aid understanding of the SRA's approach and serve as the basis for wider engagement with all stakeholders about it.

## **The purpose of legal services regulation**

- 2.1 To be clear about the SRA's approach it is necessary to be clear about the purpose of legal services regulation; of which the SRA's regulation of solicitors and legal service businesses is the largest part. This is not explicit in the primary legislation which sets out the SRA's duties and powers. Importantly, the Legal Services Act regulatory objectives do not of themselves set out this purpose. They require only that, in discharging its regulatory functions, the SRA must as far as is reasonably practicable act in a way which is compatible with those objectives.
- 2.2 In the SRA's view, the purpose of its regulation is to:
  - protect consumers of legal services; and
  - support the operation of the rule of law and the proper administration of justice.
- 2.3 The basis of the first of these two purposes is what is commonly referred to as "information asymmetry" between suppliers and consumers - the supplier's knowledge and expertise potentially puts the consumer at a disadvantage in selecting services. It is generally accepted that in professional services this disadvantage exists almost by definition because, even after purchase, the attributes of the service purchased may not be fully apparent. For example if a will is badly prepared then the consumer may never know, although their executors might: in time. However, it is also important to note that all consumers do not require the same level of protection, or possibly any protection at all. For example, a large corporation might be a sophisticated purchaser of legal services where issues of information asymmetry do not apply and, in addition, perfectly competent to ensure their own "protection" (although even sophisticated consumers may require that regulation ensures, for example, that solicitors have been properly trained). In considering the extent of protection that consumers may benefit from, the SRA is also conscious of developing consumer and competition law - these provide the foundations for any sector specific regulatory system but are continually evolving. The SRA also takes a wide view in defining consumers: the Legal Services Act defines consumers as anyone who could benefit from legal services. This helps the focus on access to justice and growth of the legal market alongside the protection of each client.

- 2.4 The basis of the second regulatory purpose is that, unlike many other services the quality, and professional and ethical standard, of legal services provided do not only directly impact on the consumer of those services. Importantly, legal services and the actions of legal services providers have an impact on:
- public confidence in the rule of law;
  - the overall effectiveness of the operation of the legal system;
  - the courts; and
  - third parties, often, but not solely, those involved in a dispute with the direct consumer of the legal services in question.
- 2.5 The first three of these are not only important socially and politically but also have a very direct economic impact, helping to ensure effective competition across the economy as a whole. One of the key conditions necessary for thriving economic activity is the ability of economic entities and individuals to make and enforce legally binding contracts and to rely on appropriate legal and regulatory protections in their business and personal activities. This in turn requires a system of competent and ethical legal services. Unregulated, and driven only by competition, legal services, and the legal services market, would be unlikely to deliver against these wider objectives.
- 2.6 Although the LSA 2007 does not specify a regulatory purpose, the regulatory objectives in that Act are consistent with this analysis, particularly the "professional principles" in s.1(3) which provide that authorised persons (in the context of the SRA's role, particularly solicitors):
- act with independence and integrity;
  - maintain proper standards of work;
  - act in the best interests of their clients;
  - comply with their duty to the court to act with independence in the interests of justice;
  - keep affairs of clients confidential.

## **Regulating in the public interest**

- 2.7 The SRA has been described, and has described itself, as a "public interest" regulator. "Protecting and promoting" the public interest is one of the LSA regulatory objectives. At times this term is used simply to differentiate the SRA's role from one of regulating in the interests of the profession. However, the term does bring with it wider issues than in its use as a differentiator.
- 2.8 The question of what it means to regulate "in the public interest" is not unique to the SRA or to legal services regulators. All regulators will have considered the issue at some point and much has been published on the issue. At the very core of the SRA's regulatory purpose, as set out above, is the assumption that the benefits to the public, or society as a whole, achieved through regulation outweigh the restrictions and costs necessarily imposed as a result of that regulation. That is not an absolute, Parliament has the ability to move legal services outside of regulation if it decided that either the regulatory purpose no longer existed or that the inevitable costs of regulation outweighed the benefits to the public.
- 2.9 A practical definition of public interest regulation was developed by the International Federation of Accountants <sup>1</sup>

and, in the SRA's view, that definition is as relevant to the public interest regulation of solicitors and legal services as it is to accountancy. The IFAC defined the public interest as, "the net benefits derived for, and procedural rigour employed on behalf of, all society in relation to any action, decision or policy".

2.10 Within the context of the SRA, there is, therefore, little that is obscure or difficult about the term "public interest". It is for the benefit of society, or in the common good, for consumers to be able, safely, to access legal advice, assistance or representation. Similarly it is for the benefit of society as a whole for the rule of law to be upheld and for there to be an effective legal and court system. In both cases there is a public interest in an outcome being achieved (or harm avoided) which will not necessarily be achieved simply as a result of competition operating in the market; because in any individual transaction between consumer and provider neither necessarily has an economic or other interest in the achievement of the wider public interest objectives. For example, it might be in the interests of both client and representative for that representative to mislead a court; the purpose of regulation in this context is to reduce the risk of that happening.

2.11 So, in many ways the purpose of public interest regulation in the legal services market is relatively simply captured. There is a common good or public benefit, in ensuring:

- that consumers of services are protected where the nature of those services mean that some consumers are inherently vulnerable in transactions with suppliers; and
- that the rule of law is upheld and that the legal system and courts operate effectively.

Regulation is a mechanism to promote those public benefits, but to operate in the wider public interest the benefits of regulatory intervention must outweigh the costs and any disbenefits of restrictions imposed by regulation.

2.12 IFAC also defines a second aspect of regulation regarding the process, i.e. the way in which decisions are taken as to the regulatory interventions to be made. This process should reflect the qualities of transparency, public accountability, independence, adherence to due process and participation that is inclusive of a wide range of groups within society. The SRA agrees with the IFAC analysis and that public interest regulation needs to incorporate both the cost/benefit assessment and the assessment of process.

## **From regulatory purpose to regulatory approach**

3.1 The SRA's regulatory approach and delivery must meet the purpose for which the regulation of this market exists. The approach taken is, ultimately, a matter for the SRA; but within a clear framework and within limits. Reference has already been made to the "professional principles" in s.1 LSA 2007 but these form only a part of the LSA requirements. Under the Act (s.28) the SRA must:

- so far as is reasonably practicable act in a way which is compatible with the regulatory objectives (including the professional principles);
- have regard to the better regulation principles; and
- to what it considers to be best regulatory practice.

The requirement is, "to have regard", so decisions are for the SRA Board but clearly these decisions must be justifiable; including to the LSB which has a clear role, defined by the Act, as the oversight regulator for the SRA.

3.2 A number of the regulatory objectives are consistent with or overlap the requirements of the professional principles.

For example, "supporting the constitutional principle of the rule of law". However, other regulatory objectives (for example, "promoting competition") and the better regulation principles are more about how the SRA regulates rather than the purpose or objectives of regulation itself.

- 3.3 Given that the SRA has choices about its regulatory approach and activities it is necessary for it to consider the interplay between the requirements in the Act. For example, in order to "protect and promote the interests of consumers" it might be considered that very comprehensive consumer protection measures are required in the form of indemnity and compensation arrangements. However, if those arrangements are very onerous and costly because of the very high levels of protection they provide and firms cannot obtain or afford to be covered, there might be a reduction in the number of firms; impacting negatively on access to justice, diversity and competition (all regulatory objectives in their own rights).
- 3.4 Similarly, in order to maintain the professional principles and protect consumers the SRA might require very high entry standards and continuing competence requirements. In fact these might be too onerous, again with a negative impact on access, diversity and competition. In both these examples, it is necessary to accept that, on balance, it might be in the public interest and provide a greater overall public benefit to set lower requirements (levels of consumer protection) at the cost of accepting that some individual clients will not be fully protected or compensated in every case.

### A framework for the SRA's regulatory approach and activities

- 3.5 The various requirements placed on the SRA by s.28 and s.1 of the LSA have no particular ranking. Until this point, the SRA has worked with the whole of the s.1 and s.28 requirements without placing them within any particular framework. Whilst that approach has provided flexibility it has not aided clarity for those affected by the SRA's regulation. In order to provide that clarity the framework the SRA is using is set out below.

<b>REGULATORY PURPOSE</b>	
<p>To regulate the conduct of solicitors and legal service providers:</p> <ul style="list-style-type: none"> <li>• to protect consumers; and</li> <li>• to support the rule of law and the administration of justice.</li> </ul>	
<b>CORE OUTCOMES TO ACHIEVE THE REGULATORY PURPOSE</b>	
<b>Outcome</b>	<b>Reference</b>
<p>Solicitors and regulated legal service providers must:</p> <ul style="list-style-type: none"> <li>• act with independence and integrity;</li> <li>• maintain proper standards of work;</li> <li>• act in the best interests of their clients;</li> <li>• comply with their duty to the court to act with independence in the interests of justice;</li> <li>• keep client affairs confidential.</li> </ul>	<p>LSA 2007 s.1(3)(a)</p> <p>LSA 2007 s.1(3)(b)</p> <p>LSA 2007 s.1(3)(c)</p> <p>LSA 2007 s.1(3)(d)</p> <p>LSA 2007 s.1(3)(e)</p>

<b>OBJECTIVES IN ACHIEVING THE CORE OUTCOMES</b>	
<b>Objective</b>	<b>Reference</b>
<p>The SRA must so far as is reasonably practicable act in a way which is compatible with the need to:</p> <ul style="list-style-type: none"> <li>• protect and promote the public interest;</li> <li>• support the constitutional principle of the rule of law.</li> <li>• improve access to justice;</li> <li>• protect and promote the interests of consumers;</li> <li>• promote competition in the provision of services;</li> <li>• encourage an independent, strong, diverse and effective legal profession;</li> <li>• increase public understanding of the citizens' legal rights and duties.</li> </ul>	<p>LSA 2007 s.1(1)(a)</p> <p>LSA 2007 s.(1)(b)</p> <p>LSA 2007 s.1(1)(c)</p> <p>LSA 2007 s.1(1)(d)</p> <p>LSA 2007 s.1(1)(e)</p> <p>LSA 2007 s.1(1)(e)</p> <p>LSA 2007 s.1(1)(g)</p>

<b>REQUIREMENTS ABOUT HOW THE SRA REGULATES</b>	
<b>Requirement</b>	<b>Reference</b>
<p>The SRA must have regard to:</p> <ul style="list-style-type: none"> <li>• the principles under which regulatory activities should be: <ul style="list-style-type: none"> <li>○ transparent;</li> <li>○ accountable;</li> <li>○ proportionate;</li> <li>○ consistent;</li> <li>○ targeted only at cases in which action is needed:</li> </ul> </li> <li>• any other principle appearing to it to represent the best regulatory practice.</li> </ul> <p>The SRA must comply with other statutory requirements, for example, the Public Sector Equality Duty.</p>	<p>LSA 2007 s.28(2)(a)</p> <p>LSA 2007 s.28(2)(b)</p> <p>General legislative requirements</p>

3.6 The regulatory purpose of the SRA has already been addressed in section 2 of this paper. Set out below is the SRA's assessment of the other three elements of this framework, the:

core outcomes to achieve the regulatory purpose;

objectives in achieving the core outcomes; and

requirements about how the SRA regulates.

## Core Outcomes

- 3.7 The SRA believes that these outcomes succinctly describe what is required of a solicitor or legal services provider regulated by the SRA in order to meet the regulatory purpose. These are effectively fixed for as long as the regulation of legal services is considered to be in the public interest and will apply regardless of the particular role played by solicitors or the entities or markets in which they operate.
- 3.8 Although these outcomes can be considered to be fixed (i.e. there will be some regulatory requirements designed to assure their delivery), the regulatory tools used by the SRA in order to achieve that delivery in practice by those it regulates will change over time. It is in making decisions about the regulatory interventions that should be made that the SRA must have regard to the objectives and requirements in the next two sections of the regulatory framework.

## Objectives in achieving the core outcomes

- 3.9 These are objectives to which the SRA must have regard when considering any regulatory intervention. They sit alongside the pure cost/benefit assessment inherent in all public interest regulation. The SRA considers that there are two particular aspects of their operation to be considered. These are:
- these objectives need to be considered when considering regulatory interventions designed to assure the achievement of the core outcomes. So, for example, any regulatory requirements considered necessary to assure the delivery of "proper standards of work" would need to be judged against their impact on "competition", or "access to justice"; and
  - these objectives can also operate directly in relation to the SRA's regulatory purpose, for example the objective of "protecting the interests of consumers".
- 3.10 The SRA is clear that the regulatory objectives do not translate directly into "objectives that the SRA must achieve". They are matters to which the SRA must have regard when discharging its regulatory functions. That is a far more limited purpose. Given that, the SRA considers that regulatory intervention purely to further one or more of the regulatory objectives would need to be justified by a compelling case. For example, the SRA would be highly unlikely to introduce a free standing regulatory requirement directed at "increasing public understanding of the citizens' legal rights and duties".
- 3.11 The SRA considers that further clarity is also required in relation to "promote competition" objective. The SRA is not a competition regulator in the manner of economic regulators or the Competition and Markets Authority. In the SRA's view its most significant challenge to promote competition is to review existing requirements (and assess proposed new requirements) in order to consider whether the broader regulatory benefits of such measures outweigh any adverse impact on competition. To that extent, the SRA considers that significant activity is required to promote competition; but in the form of properly assessing and, where appropriate, reducing existing requirements and being appropriately measured in considering the need for any additional regulation.
- 3.12 The SRA does not intend to attempt to further define each of the regulatory objectives, but agrees with the LSB when it says that they 'mean what they mean'.<sup>2</sup>

## **Requirements about how the SRA regulates**

- 3.13 These requirements define primarily how the SRA regulates. Their core are the principles of better regulation and there is a strong correlation between these principles and the public interest assessment of process test referred to at paragraph 2.12 above. In addition to the better regulation principles, the SRA takes best regulatory practice to include the requirement that the SRA is effective in delivering its remit and efficient in its use of resources.
- 3.14 The SRA considers that the principles that regulatory activities be "proportionate" and "targeted only at cases where action is needed" require active attention. As with the "competition" objective referred to above, not with a view to new regulatory interventions but in terms of examining existing requirements, many put in place before the 2007 Act and which have not previously been re-examined in the light of the Act's new framework for regulation.

## **Regulatory approach**

- 3.15 Within the context and framework set out, the SRA's overriding aim is to be an effective and efficient regulator. Particularly post the 2007 Act there has been a good deal of discussion about different approaches to regulation and regulatory techniques: outcomes focused or rules based; proactive or reactive; etc. That debate has been important in opening up thinking within the world of legal services regulation to a wider range of regulatory approaches than might have been considered or used in the, perhaps insular, world of legal services regulation prior to 2007. However, there is a risk that such debates can become sterile and it is critical that the pursuit of any one particular regulatory approach does not become an end in itself; obscuring the real purpose of regulation and what regulators must deliver in the public interest.
- 3.16 Given this, the SRA's approach will be one of relentless pragmatism. It will consider the whole range of possible approaches and interventions and use those most appropriate (in the context of the framework set out above) to achieve the regulatory purpose and the core outcomes.

## **Key factors relevant to the SRA forward programme**

- 4.1 This paper has already referred to the current and significant evolution in the market and the rapid changes in the political, economic, social and technological environment within which it operates and which, to some extent, are enabling the evolution of the market.
- 4.2 Section 3 of this paper sets out a framework that can be applied to the SRA's current regulatory approach and to the choices it makes about changes to that approach. This section identifies some of the factors requiring a re-assessment of the SRA's regulatory approach and the nature and balance of its regulatory interventions. In the SRA's view they primarily flow from changes in the operation of the legal services market that have been enabled by the Legal Services Act and also by wider societal, economic and technological changes. The SRA's regulation must be fit to achieve the regulatory purpose and the core outcomes in the market as it is and as it will be: not as it was.
- 4.3 There are a number of factors the SRA considers important in shaping its forward programme.

## **Innovation and new models of delivery**

- 4.4 Prior to 2007, the SRA overwhelmingly regulated solicitors and traditional solicitor firms, and solicitors either



practised in those SRA regulated firms or as employed solicitors delivering services to their employers.

- 4.5 However, that is not the market the SRA is regulating now and the market will increasingly fragment. Already the SRA regulates different types of entity and solicitors practise, and deliver services to the public, through a much wider range of entities; some regulated by other regulators and others not regulated at all. Much of this change has been enabled by the 2007 Act but much has also been driven by innovation within the sector including, for example, increased use of new technology.
- 4.6 Although significantly changed in 2010 with the implementation of the new Handbook, there remains a heavy emphasis within the SRA's regulatory arrangements on defining permitted business structures. This approach has the tendency to constrain innovation and competition and also to reduce transparency where individual waivers against general prohibitions are granted. This is not a merely theoretical or emerging problem. For example the SRA's work on ensuring an appropriate regulatory regime for SRA regulated MDP ABS has been significantly complicated by the current Handbook structure as has the analysis of the regulation of solicitors working within new licensed bodies regulated by other Approved Regulators.
- 4.7 As a result of this, the SRA believes it likely that the regulatory arrangements will need to be restructured to separate more explicitly the regulatory requirements placed on solicitors as individuals and those placed on regulated entities. Our aim will be to ensure:
- solicitors have the freedom to work on their own or within a wide range of businesses, whether regulated by the SRA or not, and that where they do so they are bound by a very clear set of personal obligations based on the LSA professional principles; and
  - SRA regulated entities have wide freedom, as permitted by statute, to structure themselves in ways that make sense for their businesses and their clients.
- 4.8 For solicitors, as individuals, this may mean a wholly principles based and outcomes focused Code of Conduct. The SRA's developing view is that the principles should align with those in the Core Outcomes within the regulatory framework set out at paragraph 3.5 above.

## **A "legacy" system of regulation**

- 4.9 The SRA has made important changes in its regulatory arrangements since its creation in 2006. For example through the introduction of ABS licensing and the creation of a Principles based and outcomes focused Code of Conduct. As a part of the latter step the levels of detailed prescription in the Code were reduced.
- 4.10 However, the SRA recognises that there is more to do given that the majority of the current regulatory arrangements, in substance pre-date the 2007 Act. Given that, the arrangements have not been subject to detailed scrutiny against the framework set out above at paragraph 3.5 and the objectives set out within it. In addition, the arrangements pre-date the transformation in the delivery of legal services that has been enabled by the Act and by the other range of changes referred to in this paper.
- 4.11 On balance, the SRA believes, when viewed against the objectives of "improving access to justice" and "promoting competition" and against the better regulation principles of "proportionate" and "targeted", that the arrangements provide too great a level of intervention in the market which, in important respects, cannot be justified. Overall, this is

having the impact of increasing cost and suppressing innovation and growth in the market to the detriment of consumers. In this context the SRA accepts the LSB's definition of "consumers" in the context of the LSA as being both those who access services and those who would wish too but do not.

- 4.12 Given this, the SRA will take the approach that the continuation of any existing regulatory intervention needs to be justified, rather than one of focusing on justifying its removal.
- 4.13 Constructing a forward programme on this basis does not mean that any of the other elements of the regulatory framework can, or will be ignored. They remain equally important. It is, rather, a realistic assessment of where the balance of the SRA's attention needs to lie. So, for example, when considering whether the existing approach to consumer protection through the current compulsory PII arrangements continues to be justified, the SRA will, necessarily, consider the impact of any reduction in compulsory requirements on protecting the interests of consumers.

## Setting differing requirements in the regulatory arrangements

- 4.14 The use of identification, assessment and management of risk as a regulatory tool is common across all areas of modern regulation. When the SRA created the new Handbook and decided on how it should move to become more of a risk-based regulator it was decided that:
- at the level of the regulatory arrangements it would take an largely undifferentiated approach – the regulatory arrangements would apply equally to all solicitors and regulated entities: the SRA would not, at this level, vary them according to risk;
  - the risk differentiation would take place at the operational level within the SRA, particularly in how supervision activity was applied to firms.

Similarly the SRA took the decision, generally, to not differentiate the requirements in the regulatory arrangements in line with other factors such as firm size, client type of areas of activity.

- 4.15 It was felt that moving to a principles based OFR approach would enable firms to apply the new Handbook proportionately depending on their own particular circumstances and appreciation of risk knowing their own businesses. Firms would take into account their own size, complexity, client types and areas of business in developing compliance arrangements for the Handbook that were proportionate for them.
- 4.16 However, there is also a view that in spite of the potential benefits arising from principles based OFR, small firms in particular may find it easier to comply with strict and transparent rules. This was an issue highlighted in recent research undertaken for the LSB and TLS by the Regulatory Policy Institute. It is a point echoed in the Government's new Regulators Code. Uncertainty of enforcement has the potential to drive costs at firms as much as over-regulation. There is a risk that firms retrench in response to OFR rather than innovate. This will lead the SRA to re-examine the broad approach set out at paragraph 4.14 above and be more open to differentiating the application of the regulatory arrangements between, for example, different types of firm or different consumers.
- 4.17 As has been said at paragraphs 3.15 and 3.16, the SRA needs to be alive to this issue in reaching decisions on the most appropriate approach to take in any given set of circumstances. Decisions will be driven by a pragmatic analysis of what will best deliver the SRA's regulatory purpose. On balance, there are clear advantages to be derived from a principles based and outcomes focused approach for many firms and in many circumstances, but it is

inevitable that in some areas, and potentially for some types of firm, the application of clear rules may deliver greater overall benefits.

## Implications for the SRA's forward programme

5.1 The purpose of setting out in detail the SRA's regulatory approach is not only to provide clarity to solicitors and to the market for the future but to provide a clear framework and rationale for an immediate programme of work designed to:

- remove unnecessary regulatory barriers and restrictions and enable increased competition, innovation and growth to better serve the consumers of legal services;
- reduce unnecessary regulatory burdens and cost on regulated firms;
- ensure that regulation is properly targeted and proportionate for all solicitors and regulated businesses, particularly small businesses.

5.2 The major elements of this programme will include:

- the SRA's fundamental revisions to the systems for educating, training and developing solicitors through the Training for Tomorrow programme. This programme is already underway;
- changes to the SRA's regulatory framework and approach to enable increased entry of multi-disciplinary ABS to the market and to ensure that the regulation of such entities is targeted and proportionate. A consultation on proposals has been published on 7 May 2014;
- changes to the arrangements for compulsory PII for regulated entities to ensure that the minimum requirements set for firms by the SRA are proportionate whilst maintaining protection for the public, particularly individuals and small businesses. A consultation on proposals has been published on 7 May 2014 as has a decision on the SRA's earlier consultation on rated insurers;
- changes to the SRA's compensation arrangements to ensure that these are targeted at consumers requiring regulatory protection and to ensure that the overall cost of the arrangements is proportionate and affordable. A consultation on proposals has been published on 7 May 2014;
- changes to the requirements for accountants' reports on client accounts to reduce the cost of the current arrangements whilst maintaining proportionate safeguards over client money. A consultation on proposals has been published on 7 May 2014;
- a package of measures to reduce regulatory burdens on small firms and to increase the level of support to such firms from within the SRA. We will be engaging with solicitors, firms and representative bodies on the contents of this package and intend to publish proposals in the Summer of 2014;
- changes to the separate business rule to provide greater freedom to firms about how they structure their businesses whilst maintaining appropriate levels of consumer protection. It is intended to publish a consultation paper in November 2014 and implement changes in April 2015.
- changes to the way in which in-house solicitors are regulated to remove the current complicated system of rules and exceptions and provide a clearer less restrictive framework.

5.3 As the overall review of the SRA's regulatory approach continues it is expected that further proposals will be brought forward.

- 5.4 In addition to this work, and of equal importance, the SRA recognises the criticality of improving its operational performance and quality of its interactions with solicitors, firms and the public. Fundamental to the SRA's aim of being an effective and efficient regulatory body is not just that its regulatory arrangements be appropriate but that its delivery of regulation be excellent. A major programme of work will be taken forward inside the SRA to achieve this alongside these more externally focused reforms.
- 5.5 Similarly, the SRA will be publishing its response to the report of the Independent Comparative Case Review, conducted by Professor Gus John, in the near future. The SRA's forward programme will include any activities flowing from this response. This work will be taken forward also in the context of the material published in this paper, including work to be undertaken in relation to smaller firms, and the SRA's determination to demonstrate fair and proportionate regulation..
- 5.6 In addition, the consultation paper on changes to the requirements for accountants' reports on client accounts, is an initial stage in what will be a more significant piece of work in relation to the holding of client money. This will include consideration of the current SRA Accounts Rules with the aim of reducing length and complexity and a consideration of alternatives to the holding of client money and consideration of the risks and incentives related to the holding of such money.
- 5.7 The current SRA three year strategic plan covers the period through to the end of 2015. The SRA will be replacing this plan with a new strategic plan covering the period 2015-2017 which fully reflects the programme set out in this paper.

---

1. "IFAC Policy Position 5 – A Definition of the Public Interest<sup>2</sup>, International Federation of Accountants, June 2012

2. Para 1: [http://www.legalservicesboard.org.uk/news\\_publications/publications/pdf/regulatory\\_objectives.pdf](http://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf)