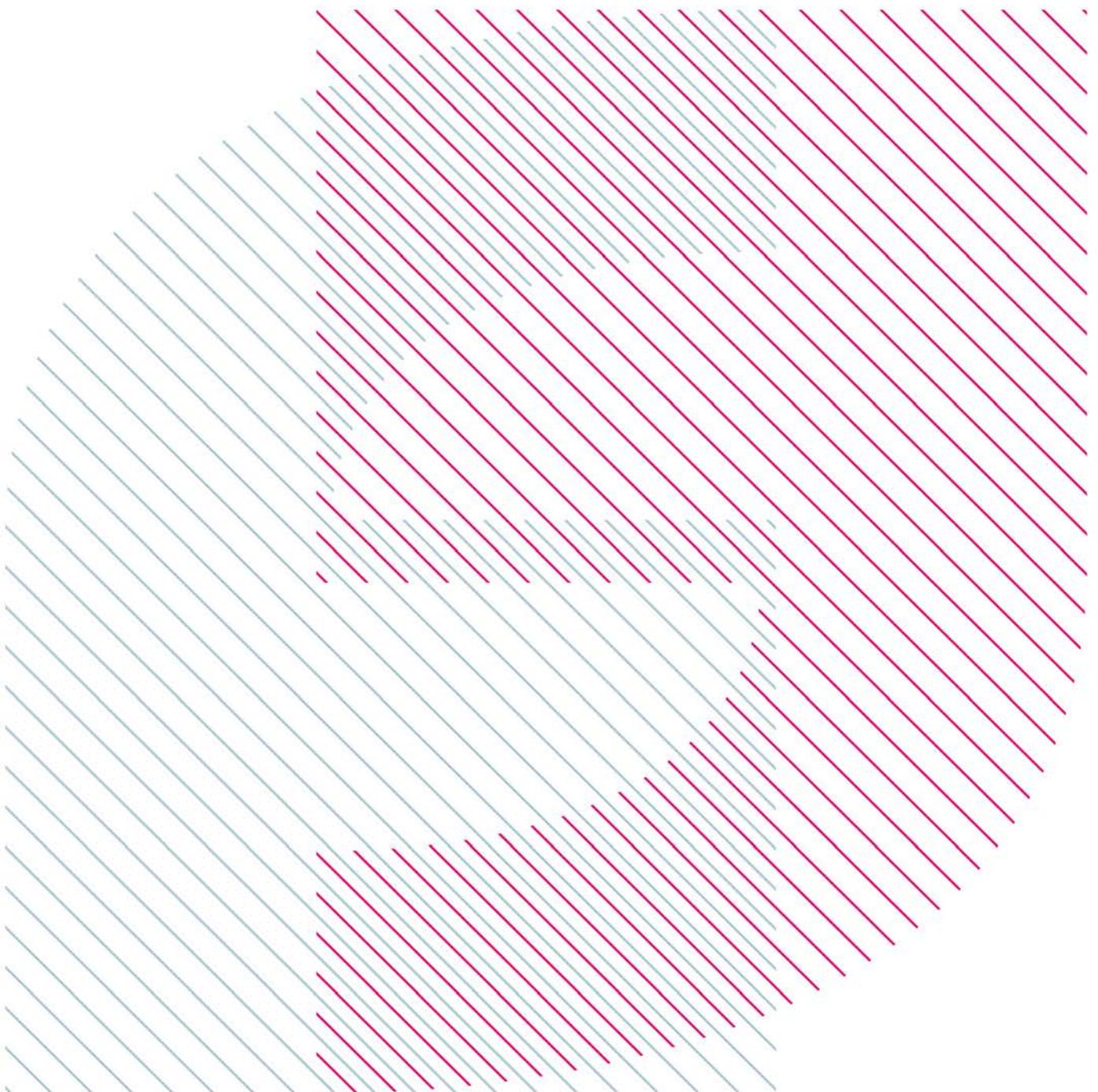


LEGAL  
OMBUDSMAN

**Looking to the future –  
flexibility and public  
protection**



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## Introduction

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1. The Legal Ombudsman was established by the Legal Services Act (2007). Our role is two-fold: to provide consumer protection and redress when things go wrong in transactions within the legal services market; and also to feed the lessons we learn from complaints back to the profession, regulators and policy makers to allow the market to develop and improve.
2. The Legal Ombudsman welcomes the opportunity to respond to the Solicitors Regulation Authority's (SRA) consultation, which sets out their vision of the future of regulation of solicitors, to ensure that future regulation is targeted, proportionate and suited to the future legal environment.
3. This paper combines our responses to:
  - Looking to the future – Flexibility and Public Protection
  - Looking to the future – SRA Accounts Rules Review
4. There are two key areas of the Flexibility and Public Protection consultation which are of particular interest to the Legal Ombudsman: the proposal to allow authorised persons to practice as part of an unregulated legal service provider's company; and the impact arising from no longer making the compensation fund available to their clients, whilst also removing any requirement for providers to have professional indemnity insurance.
5. The Legal Ombudsman supports the wider policy objective behind the proposal, which is to provide greater flexibility for solicitors to deliver their services, and therefore give consumers greater access to competent and affordable legal advice when needed.
6. While we support the principle behind these proposals, we do have concerns about the impact on the principle of entity-based regulation, the wider system of redress, and how they will work in practice. However, as it is not clear how many firms and solicitors are likely to adopt this model the depth of the impact on the Legal Ombudsman does need to be clarified.
7. In particular we have serious concerns about:
  - The lack of clarity about, and the potential difficulties in, determining our jurisdiction.
  - The risk to consumers due to the removal of the compensation fund and professional indemnity insurance.
  - The viability of the small claims court as an alternative to the Legal Ombudsman.

In our view, if the proposals remain the same, the jurisdictional issues can only be addressed by amending the Legal Services Act. We look forward to working with the SRA to address this in the future if needed.

8. When the Legal Ombudsman was set up it was envisaged that an ombudsman for the sector would simplify the existing system for redress and reduce confusion among consumers. This has happened. Complaints about solicitors, barristers, licensed conveyancers, claims management companies, and other regulated bodies are now dealt with by us.
9. However, we know that the system for redress is still far from perfect and could be simpler for consumers. Therefore, when we consider proposals such as this we always look at whether they simplify or maintain the existing arrangements, or if they are likely to lead to further complication and confusion.
10. At this stage we believe that the proposals will complicate the system of redress and create confusion for consumers and service providers. In our response below we look at the impact on our jurisdiction and ability to enforce our decisions, as well as looking at a range of practical issues which are likely to arise.
11. The proposals primarily create difficulty for us because our jurisdiction is over the authorised individual (solicitor) rather than the firm or anyone else who works there. While technically a consumer still has access to the Legal Ombudsman for the work of the solicitor it will rarely be so straightforward. We envision difficulties in understanding who has actually undertaken work for the consumer, whether this can be evidenced, and whether we have powers to request evidence. Further, as it will be the solicitor who is held responsible for the complaint (including paying any redress or case fees) this also raises questions about whether we would want to enforce decisions against individual solicitors.
12. In addition we do not agree with the SRA view that the redress alternatives (such as the voluntary ADR and the Consumer Rights Act) provide enough safeguards for consumers, and therefore we believe that the proposals to remove access to the compensation fund and the requirement for professional indemnity insurance creates further significant risks to consumers.
13. The consultation acknowledges that the information available to consumers is essential to the success of the proposals. We do question how much consumers will consider the relationship they are entering into. In our experience consumers rarely appreciate the difference between a regulated and unregulated practice, and choice is often driven by cost and word of mouth rather than an assessment of the protections available to them. Consumers only become concerned with protection issues if a problem arises with the service they receive.
14. We believe that if a consumer brings a complaint about the service they have received, they will expect all elements of the case to be investigated. As we have highlighted in our response there are likely to be situations where we will have to

carefully pick which elements of a case we can investigate, and situations where we will hold a solicitor to one standard (for example on conflict of interest issues) but not be able to comment on the actions of the wider firm.

15. We are also concerned about the tensions the proposals will create between the professional obligations of the individual solicitor and the way an unregulated firm may be run. While a solicitor retains many of their obligations, such as competence, conflict of interest, complaint handling, these are not requirements for an unregulated firm. What should a solicitor do when these obligations come into conflict? If these issues are raised in the course of an investigation they are likely to lead to interesting questions for us, and a solicitor could ultimately be found to have provided an unreasonable service (due to their professional obligations).
16. Given the concerns we have raised we look forward to hearing from the SRA as to whether these issues can be addressed. In particular, we would be interested to work with the SRA and Ministry of Justice to see if there are ways that we can address the jurisdictional issues that are set out below.

## Looking to the future – flexibility and public protection

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### **Q.8 Do you think there is anything specific missing from the code that we should consider adding?**

17. We note that the proposed code of conduct has removed the ban on firms making unsolicited marketing approaches to members of the public, instead replacing it with two broader requirements under 1.2 (not taking unfair advantage of clients) and 8.8 (ensuring publicity is not misleading). We do not think that outcomes 1.2 and 8.8 are sufficient to prevent firms engaging in unsolicited marketing techniques.

### **Q. 9 What are your views on the two options set out for handling actual conflict or significant risk of conflict between two or more clients and how do you think they will work in practice?**

18. We do not have any comment on the proposed drafting of the conflict of interest rules. However, we would like to comment on how they are likely to apply under the alternative legal services provider model.
19. As we understand it within an unregulated firm a solicitor (beginning an instruction with a client) would be under an obligation to conduct conflict of interest checks at the beginning of an instruction. However, another unregulated employee would not be under an obligation to conduct checks. We also understand that conflict of interest checks are often undertaken via the case management system, therefore

we question whether unregulated firms will have the systems in place to allow solicitors to meet their professional obligations.

20. In our experience consumers have an expectation that when a solicitor works for them their information will be confidential and they will work in their best interests. Therefore, while the code of conduct may be clear about a solicitor's obligations, we believe it will be difficult for consumers to understand why one part of an organisation is required to conduct these checks and another is not. Further, if a solicitor's documentation sets out that they will conduct checks we believe that many consumers will expect this to be a firm wide policy, unless they are expressly told differently.
21. From a service perspective we would of course expect solicitors to conduct these checks at the beginning of an instruction, and also at any point where they may have concerns in this area. In certain circumstances we may also consider it to be poor service if a solicitor does not make it clear about the lack of checks elsewhere in the firm.

**Q. 16 What is your view of the opportunities and threats presented by the proposal to allow solicitors to deliver non-reserved legal services to the public through alternative legal services providers?**

22. We appreciate that the proposals to allow solicitors to provide legal services through alternative legal service providers will provide the opportunity to develop more innovative ways to practice, and potentially provide services at a lower cost due to the lower levels of regulation.
23. The consultation rightly states that consumers will still have recourse to the Legal Ombudsman if they have received a service from a solicitor, regardless of the fact that they are working in an unregulated practice. Under the Legal Services Act (the Act) s.128(1) it states that a *“respondent is within this section if, at the relevant time, the respondent was an authorised person in relation to an activity which was a reserved legal activity (whether or not the act or omission relates to a reserved legal activity).”*
24. There are several key issues to consider here:
- Will consumers know they have received a service from a solicitor and will the documentation be clear enough for us to investigate?
  - When do we have jurisdiction, and when may this be in question?
  - Will it be possible to enforce Legal Ombudsman decisions?
  - What practical issues could arise?
- A. *Will consumers know they have received a service from a solicitor?*
25. While consumers in theory have access to the Legal Ombudsman, their ability to bring a complaint may be limited if it is unclear who has actually undertaken the work on their behalf.

26. Under s.5.2 of the individual code of conduct solicitors are required to tell clients about which services provided by them, or a “separate business”, are regulated. However, it is unclear whether this creates an obligation to ensure consumers are aware that a solicitor is undertaking, or contributing to their work. We could envisage a situation where a consumer receives a service from an unregulated firm but does not receive clarity about who is doing the work; for example, if the title “solicitor” is not used in communication. In this situation a consumer may not know even know that they can bring a complaint to the Legal Ombudsman.
27. In addition, if the documentation is unclear about who has undertaken work for a consumer then it will make it difficult for us to establish jurisdiction and investigate a complaint.
28. We believe it is important that there is a mechanism to ensure that consumers are told when a solicitor is involved in their work.

**B. *When will the Legal Ombudsman have jurisdiction?***

29. If the authorised person is the only person providing the service then our jurisdiction is straightforward based on s.128 of the Act.
30. However, we would have to carefully consider our jurisdiction in the following scenarios:
- 30.1 **Situation:** Both a solicitor and a case worker contribute to a legal service. The solicitor had ownership of the work and the client care letter was in their name.  
**Jurisdiction:** We have clear jurisdiction over the work of the solicitor, but as we do not have jurisdiction over the unregulated firm we would need to consider whether the work of the case worker falls within our remit. We would look carefully at the work that has been done by each person. However, if the solicitor signed the client care letter we may be more likely to consider that they are responsible for the whole matter.  
**Outcome:** In this scenario we would be likely to investigate the whole complaint, taking a holistic view of the service, and putting in place an appropriate remedy.
- 30.2 **Situation:** Both a solicitor and a case worker contribute to a legal service. It is unclear who owns the piece of work either because the documentation was unclear or the client care letter was a generic letter from the firm.  
**Jurisdiction:** As above the work of the solicitor clearly falls within our jurisdiction, but as the firm does not we would have to consider whether the work of the case worker falls within our remit, and whether we can identify which person has done different aspects of the work.  
**Outcome:** In this case, because we cannot attribute the ownership of the file to the solicitor, we are likely to only investigate areas of the complaint that the solicitor has been directly involved in. It may also be difficult for us to determine who has responsibility for a particular aspect of a service. For example, if the consumer did not receive a cost update, if there is more than

one person involved in the work, it could be difficult to attribute any service failing to a specific person. This could lead to an unsatisfactory outcome for the consumer who is unlikely to understand why we would have to be selective, and any decision and remedy would not be reflective of the overall service from the firm.

30.3 Situation: A solicitor supervises the work of a team of case workers. The solicitor does not do the actual day to day work but manages the team, checks files are progressing and deals with questions about how matters should progress.

Jurisdiction: Our jurisdiction covers the acts or omissions of a solicitor, but at this point it is unclear whether an “act” could include supervision. We may have to consider how much involvement the solicitor had with the individual case and, for example, whether they gave clear instructions about how a case should progress. Another challenge could be whether the supervision can be evidenced to allow us to investigate.

Outcome: Again in this situation it could lead to an unsatisfactory outcome for the consumer, either because we cannot establish a close enough link between the solicitor and the work, or because there is not enough evidence of the solicitor’s role.

- 31 One of the key issues we will need to resolve is the extent to which we have jurisdiction when a solicitor is supervising the work of others. This is a question which occasionally arises at the moment; for example, with solicitors working in law centres or advice bodies. Our current position is that we will investigate a complaint if we can establish a sufficient link between the solicitor and the case worker. However, if these proposals move ahead then we will take further advice to assess how far our jurisdiction extends. The individual code of conduct is helpful in this respect as s.3.5 makes it clear that solicitors are accountable for the work of those they supervise. However, in reality we must be guided by the Act and how far this limits our jurisdiction.
- 32 In summary whilst we will always look at a complaint brought by a consumer, the proposals as they stand will be frustrating for both us and consumers as our jurisdiction is likely to be unclear or seriously limited. We are concerned that this could have a negative impact on how consumers view the effectiveness of the Legal Ombudsman, particularly if substantial numbers decide to adopt this model of working. In addition, the Legal Ombudsman will have to undertake a significant amount of work to establish jurisdiction in these cases, which would of course come at a cost to the wider profession.
- 33 Finally, unless our jurisdiction is clear then signposting by solicitors and unregulated firms is likely to be incorrect and consumers are less likely to make their way to the Legal Ombudsman in the first place.

### *C. Will it be possible to enforce our decisions?*

- 34 As well as our ability to investigate, it is important to consider whether our enforcement powers would work with this new model. By “enforcement powers” we mean our ability to enforce our decisions via the courts if the solicitor does not adhere to our decisions. We currently enforce approximately 150 cases per year. Our jurisdiction is over the authorised individual and therefore any decisions would be in their name as well. This would mean that any published ombudsman decisions and case fees would be in their name as well.
- 35 While we may investigate a complaint against an authorised individual if they, or the firm, decided not to comply with the decision, we would have to carefully consider whether to enforce the decision. Currently we enforce decisions against regulated firms on a regular basis. This is done on behalf of the consumer at no cost to them. However, as we could not enforce a decision against an unregulated firm we would have to consider whether it is appropriate to take action against the individual. For example, we would have to check whether an individual has the personal assets and ability to pay any remedies, and also whether we want to formally take action against an individual when we may feel that it is the firm who is at fault. It should be noted that it costs the Legal Ombudsman around £300 per case to initially establish whether a person has the assets and ability to pay if our enforcement action is successful.
- 36 In the consultation, alternative redress options are mentioned including ADR and the Consumer Rights Act. As participation in ADR under the regulations is voluntary we do not consider that this provides a sufficient safeguard for consumers whose complaints fall outside of our jurisdiction.
- 37 Under the Consumer Rights Act we understand that there are two possible routes for redress; a section 75 claim or a claim against a trader for the standard of service they have received. A section 75 claim can only be made for misrepresentation or breach of contract. So a claim may be possible if a consumer has paid for a service which has not been provided but is unlikely to be successful where there is a problem with the way the service has been delivered.
- 38 As we understand it complaints which cannot be resolved directly with a trader could end up at the small claims court. Although the small claims court is set up to be a consumer friendly process we believe the following points should be taken into consideration:
- 38.1 Ombudsman schemes in general are set up to be an alternative to the court process, recognising the courts can be costly, time consuming and stressful for consumers. The Clementi report<sup>1</sup> proposed the establishment of a statutory ombudsman scheme for the legal sector because he recognised the need for an independent scheme to move away from the fragmented nature

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<sup>1</sup> <http://webarchive.nationalarchives.gov.uk/http://www.legal-services-review.org.uk/content/report/chapter-c.htm> “Report of the review of the regulatory framework for legal services in England and Wales, Chapter C”

of complaints handling and redress mechanisms. While the small claims court is an option it seems to move us a step away from the vision of the Clementi report rather than working towards further reforming the system of redress.

- 38.2 As the Legal Ombudsman has the statutory power to make decisions against authorised persons the enforcement process is relatively straightforward and quick, is rarely challenged by solicitors, and is free to consumers. Conversely, consumers will be responsible for the small claims court process. This does come at a cost to them, the process can be defended by the trader and is likely to take significantly longer than our processes.
- 38.3 As we understand it, the small claims court usually operates based on the value of a claim. However, not all complaint remedies awarded by this office have a monetary value. They include, for example, remedies to return a file, progress work in a timely manner, put things right for a consumer and apologise. It is unclear if a small claims court would deal with issues of this type. We know from our experience and research<sup>2</sup> that consumers are not necessarily after a financial reward when they complain about their solicitor but look for an acknowledgement that something has gone wrong and an apology, neither of which are likely through the small claims court.
- 38.4 It is unclear whether a Legal Ombudsman decision against an authorised individual could be used as evidence in a claim against a trader.
- 38.5 We have already noted that the small claims court is likely to be a stressful process for many. In addition, we understand that the process is usually completed online, which will put certain consumers at a disadvantage. Therefore, we would be interested to see the results of the equality impact assessment on the use of the small claims court as an option for redress.
- 39 While the small claims court looks like a viable option, the process is likely to be much more challenging for consumers and there may be situations where they are unable to obtain the redress they need to resolve their situation. We know that consumer confidence in complaining about legal providers is lower than in other sectors and that a significant proportion of those who are dissatisfied with the service they have received become “silent sufferers” and do not go on to make a complaint<sup>3</sup>. We would be particularly worried about the proportion of silent sufferers increasing.

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<sup>2</sup> <http://www.legalombudsman.org.uk/downloads/documents/publications/Complaints-Combined-executive-summary-YouGov.pdf> “YouGov report: Consumer experiences of complaint handling in the legal services market”

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[http://www.legalservicesconsumerpanel.org.uk/publications/research\\_and\\_reports/documents/Howconsumersareusing.pdf](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/Howconsumersareusing.pdf) “Legal Services Consumer Panel: Tracker Survey 2016”. This is an annual survey. The 2016 survey indicated that 43% of consumers were confident in complaining about their lawyer, compared with

*D. What practical issues could arise?*

- 40 As we have already noted above, a successful investigation will depend on clear documentation and evidence which shows who has been involved in the work. Without this our jurisdiction and ability to investigate could be frustrated.
- 41 Another interesting question is who owns the client file: the firm or the solicitor? Under s.147 and 149 of the Act the Legal Ombudsman can require solicitors to provide information, and if not provided it can enforce the requirement through the courts. However, in an unregulated firm it is unclear whether we would be able to use these powers, particularly if a solicitor does not have ownership of a file, as we can only ask solicitors to produce information that a High Court could compel someone to provide. In a scenario where either the solicitor or unregulated firm refused to cooperate with us we could still investigate (if we considered it fair to do so). However, we would draw inference from the solicitor's failure to provide the required information.
- 42 It would be helpful to know if the SRA has considered this situation and identified any solutions?
- 43 In addition under s.145 of the Act solicitors are obliged to cooperate with the Legal Ombudsman. An interesting scenario arises if a solicitor is willing to cooperate but is prevented by the unregulated firm. We would be likely to make a misconduct referral to the SRA on this basis, and we may also conclude that they have not provided a reasonable level of service as they had failed to comply with their professional obligations.
- 44 Finally, we also need to ensure that we have sufficient data to make an initial assessment about whether a complaint is within our jurisdiction. We currently receive a regular data feed of regulated firms from the SRA, and we would also require details of the unregulated firms where solicitors are based.

**Q.20 Do you think we should require SRA regulated firms to display detailed information about the protections available to consumers?**

- 45 We believe that it would be useful for firms to display information about the consumer protections available. We do not think that this needs to be overly detailed but should provide reassurance that protections are available, what they broadly cover, and how they can be accessed if needed. We would be happy to work with the SRA on this if required.
- 46 This section of the consultation also looks at the existing consumer protections which are available, including the Legal Ombudsman, the Consumer Rights Act and ADR bodies.

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supermarkets (67%) and banks (52%). It also indicated that 35% of those who were dissatisfied with the service from their lawyer did not go on to make a complaint.

- 47 We do not agree with the SRA analysis in this section. We have highlighted that access to the Legal Ombudsman may not be as straightforward as envisaged, and we also have concerns about the use of the Consumer Rights Act and small claims court as an alternative mechanism. The consultation proposes the availability of ADR across all sectors as a further alternative mechanism for resolving disputes. However, it does not take into account that the use of ADR schemes is voluntary.
- 48 We would be concerned if these proposals went ahead on the basis that the Consumer Rights Act and ADR provide sufficient safeguard for consumers. We believe that there are clear deficiencies in this proposal.

**Q.23 Do you agree with our approach that solicitors working in an alternative legal services provider should not be allowed to hold client money in their own name?**

- 49 We broadly agree that solicitors working in an unregulated firm should not be allowed to hold client money in their own name. However, we would note that as our jurisdiction is over the solicitor, if client money was held in the solicitors name (perhaps via an ESCROW account) then it would be easier in some circumstances for consumers to obtain their redress. If these proposals move forward it would be useful to look at this point in more detail.

**Q.25 Do you agree with our proposal that the SRA Compensation Fund should not be available to clients of solicitors working in alternative legal service providers? What are your reasons?**

**Q.26 Do you agree with our proposal not to make individual PII cover for solicitors a regulatory requirement on the individual solicitor?**

- 50 We will consider the question of the Compensation Fund and Professional Indemnity Insurance (PII) together as we believe that they are a key part of the consumer protections which are available at the point when all else fails.
- 51 The Legal Ombudsman also deals with complaints about claims management companies where the safety net of PII or any sort of compensation fund does not exist. We have had a number of occasions where firms have closed down in this sector and a consumer's only potential redress is to join the list of creditors to a firm, therefore effectively leaving them without any resolution to their issues, even if we make a decision of poor service. This is an unsatisfactory position for consumers and could perhaps lead them to question the usefulness of a scheme when there is no way for a resolution to be enforced. We would be concerned if this was to happen in the legal jurisdiction on a regular basis as well.
- 52 Both the fund and PII are vital sources of compensation for consumers particularly if a firm closes down unexpectedly. Without these options a consumer would have no ability to recover funds which have been paid on account to a firm. This could

be substantial. While the small claims court may be an option if a firm is trading, we do not believe it would be a viable option if a firm has closed (unless the consumer is able to track down individual company directors) and therefore the only viable option would be for the Legal Ombudsman to enforce a decision against the authorised individual.

- 53 PII is a vital protection for both consumers and solicitors in situations where a large remedy is required. While some unregulated firms may choose to take out insurance, others may not, which again would either leave the solicitor or the consumer exposed. In addition, even if an unregulated firm had appropriate insurance, it would not include the standard term to pay Legal Ombudsman awards.
- 54 Our data does not record if remedies are paid via the compensation fund or indemnity insurance. However, we have looked at the number of investigated

**Examples:**

**Immigration:** Miss A instructed a firm when she needed assistance in making applications for child dependency visas for her two nieces. She agreed a fixed fee of £2,750 including VAT, which was paid in advance.

The firm failed to complete the work and closed several months later. She complained that the firm had failed to communicate with her or progress her case.

After reviewing the available information, including evidence of Miss A's attempts to contact the firm, we concluded that the firm had failed to complete the work they had been instructed and paid for. We decided the firm should refund the original fee and compensate her with £150 in recognition of the frustration and inconvenience they caused her.

As this remedy involved both a refund of fees and compensation Miss A had to contact both the firm's insurers and the SRA Compensation Fund.

**Personal Injury:** Mr B instructed a firm to make a claim against the NHS, paying a fixed fee of £1,000 + VAT. The firm closed down several months later and he complained that they had not progress his case at all.

We concluded that the firm had completed some of the work. However, they had not actually submitted his application. We instructed the firm to refund £250 plus VAT to recognise that all the work had not been completed.

As the firm had closed Mr B approached the SRA Compensation Fund.

complaints where a firm has closed, and a remedy has been awarded. Last year<sup>4</sup> we dealt with just over 600 complaints<sup>5</sup> where the firm had closed or been intervened with. In 63 cases we decided that either a refund or reduction in fees was required. In 15 cases financial compensation was required, and in 153 cases compensation for emotional impact was required. While the majority of payments were less than £1,000, payments over this amount were required in 77 cases.

- 55 The examples above highlight the importance of the availability of both indemnity insurance and the compensation fund, and show how customers of an unregulated firm could be affected by the absence of these.
- 56 It would be useful to know if the SRA has any recent data on payments from the compensation fund which would help to assess the potential risk to consumers? A 2014 report by Economic Insight showed that, in 2014, £200,000 was claimed from the Compensation Fund under “theft of client money”. This was separate to conveyancing and probate claims, and potentially indicates that the fund is vital to consumers. Is there any further analysis of this amount or payments from later years which would help to assess the risk?
- 57 While we appreciate that working for an unregulated firm will include minimising the regulatory costs to the individual solicitor, we believe it is important that the SRA provides assurances that there is minimal risk to consumers if they are left without the protection of the compensation fund and PII. Without this further information we remain concerned about these proposals and the potential impact on consumers.

**Q.28 Do you think that we should retain a requirement for special bodies to have PII when providing reserved legal activities to the public?**

- 58 At this stage the proposals for the special bodies are at an early stage and therefore it is difficult to comment in detail about issues such as PII.
- 59 As a general principle PII is important as it protects both the consumer and the special body. However, clearly any requirements in this area must be proportionate and ensure that the services provided by special bodies are not endangered in any way.

## Looking to the future – SRA Accounts Rules Review

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**Q.2: Do you agree with our proposals for a change in the definition of client money?**

- 60 The consultation proposes changing the definition of client money so that fees which are paid in advance, or that are for payments to third parties (excluding

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<sup>4</sup> April 2015 to March 2016

<sup>5</sup> This does not include conveyancing complaints and wills and probate complaints.

payments such as Stamp Duty Land Tax or estate monies), no longer have to go into a client account. We do not have any comment on the proposed drafting of the definition of client money. However, we would note the following concerns with the proposals:

- 60.1 It is difficult to assess the rationale for the change without a clearer understanding of the impact and cost to solicitors of the current arrangements.
- 60.2 We are concerned that consumers whose fees would previously have gone into the client account will now lose important protections that are available to them. While the compensation fund will still be available to consumers, it does effectively create an extra hurdle for them to jump through to access their funds.
- 60.3 The consultation suggests that a change in the definition of client money will have an impact on the level of claims to the compensation fund, and that this would need to be assessed at a later stage. We would like assurances that consumers' access to the compensation fund will not be reduced and that they will receive a full refund in these circumstances. In addition, we suggest considering a fast-track process for claims of this sort.
- 60.4 The consultation also suggests that some consumers will be protected by s.75 claims under the Consumer Rights Act. While this approach could be used, it is most useful when a consumer has paid for a service that they have not received. This will only happen in limited cases and most complaints we see relate to the service not being of the required standard. We do not think this scenario would be covered by s.75. Finally, this option would of course be limited to those who have paid by credit card, and consumers paying by other methods would not have this protection.

## Summary

Thank you for the opportunity to comment on the proposed changes to the SRA Handbook.

As you can see, we do have concerns, particularly about the proposed alternative legal services provider model; but we would be happy to work with you to try and identify if there are ways to overcome these challenges.

For any questions about our response please contact [alex.moore@legalombudsman.org.uk](mailto:alex.moore@legalombudsman.org.uk)