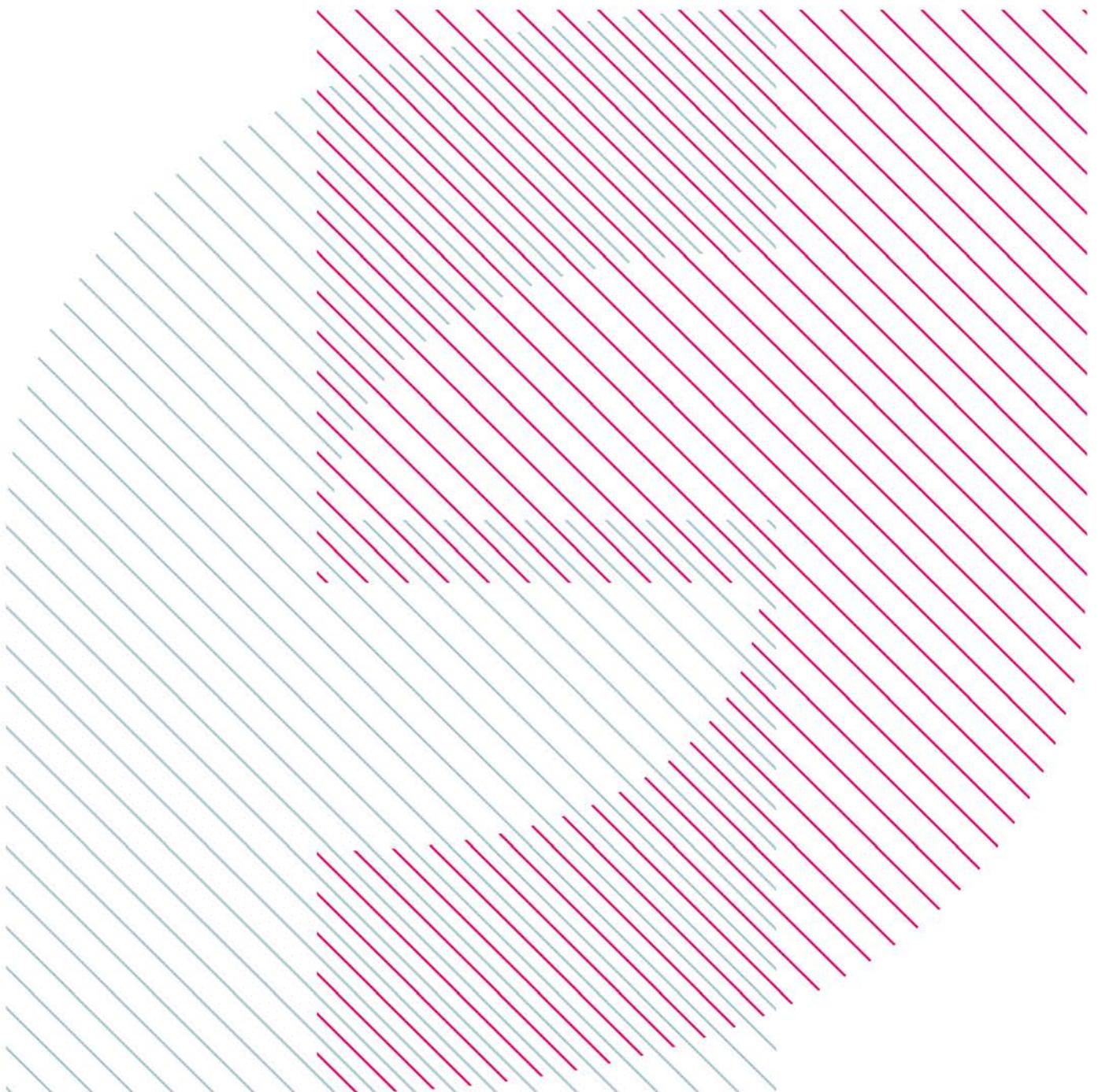


LEGAL
OMBUDSMAN

**Solicitors Regulation
Authority: Corporate
Strategy 2017–20**



Introduction

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. We welcome the opportunity to respond to the Solicitors Regulation Authority (SRA) consultation on their new Corporate Strategy (2017-20), which sets out a focused vision and action plan for the next three years.
3. Strategic aims 2 and 3 are of specific interest to us. In particular, the plans to allow authorised persons to practise from unregulated entities are likely to affect our own work in a significant way. We are also invested in the opportunity to improve public understanding of legal rights and duties as part of our regulatory objectives. We are keen to engage with the SRA in making more information available to the public to facilitate choice in the legal services market.
4. Our wider view on the strategy is positive: the document makes pertinent assessments of the legal landscape at this time and builds flexibility and innovation into the SRA's approach for the next three years. While we have some comments and questions about specific points, we look forward to working collaboratively on these objectives with the SRA in the future.

SRA Corporate Strategy 2017-20

Q.1 Do you have any comments on the key factors we have identified in the legal services market and wider environment?

5. We believe that these key factors are well-identified: they are relevant, contextual and appropriate, and we would welcome a focus on these matters. We appreciate the breadth of scope, in that the SRA appear to be looking both at existing practice within the profession and potential new areas waiting to be explored.
6. However, while we applaud the focus on improving access to justice, widening diversity in the profession and improving public knowledge of the legal services market, we believe the optimism of this outlook must also be tempered with pragmatism in the face of the demands of 'Brexit'. The key factor of EU membership

and constitutional development in the UK should be an overarching one which will inform all activities planned for the next three years. All other factors must be considered in this framework of huge constitutional change.

7. Nevertheless, the SRA should still push ahead as much as possible. The SRA must consider all of these factors in the framework of Brexit, but this should not be the only issue on the agenda at the expense of everything else. We applaud the SRA for remaining focused on improvement and suggest only that some of the more ambitious projects may face difficulty in competing against the demands made by Britain's leaving the EU.
8. To take a broader view, we believe that the balance struck between horizon scanning, improving existing regulatory arrangements and upgrading internal processes is fitting for a three-year corporate strategy.

Q.2 What should be our key priorities over the next three years?

9. We take the view that the SRA's commitment to making sure that regulation is proportionate and innovative should absolutely remain a key priority. This of course means ensuring that regulation is meeting the needs of consumers as well the profession, but also that it remains aligned with government thinking. We note that some of these changes may require legislative amendments, and so in anticipation of a rather reduced appetite in Westminster for further legislative change in areas unrelated to Brexit, we suggest that the SRA might narrow its focus for this strategy, seeing this as a first step on a longer journey of innovation and adaptation.
10. There is great movement happening within the market and beyond, and therefore we encourage the SRA to focus on embedding changes within the existing framework. It is important to ensure there is understanding of the impact of wide-ranging change on organisations such as (but not limited to) our own. With such a wealth of activity, we also encourage the SRA to focus on engaging with the right people, making sure all projects are inclusive and a cohesive approach is taken to their far-reaching work.
11. In particular, we are concerned that these changes should not have a detrimental impact on consumers; it is crucial that changes in regulation do not lead to consumer confusion, and therefore there must be a focus on how implementation of the big projects in this strategy will affect this. One of the most important matters during a period of change in the market is to keep the availability of consumer protection and redress constant and in fact aim to tighten and augment provision.
12. Finally, we support the SRA in being informed but not defined by consultation responses. We encourage the SRA in determining for themselves what their policies should be; taking into consideration the comments of others without allowing these to dictate their path entirely.

Q.3 Do you have any comments on our proposed programme of work?

13. It is important to the Legal Ombudsman that we ensure that close collaboration continues between our organisations, even with changing circumstances. In particular we look forward to the opportunity to enhance our data sharing capability for the purposes of joint working. We were pleased to be involved in recent research on first-tier complaints handling and would welcome the opportunity to work with the SRA on projects like this in the future.
14. We will be interested to read consultation responses and results of wider research into measures to improve public information on legal services. As a body that seeks always to improve access to justice for consumers, more informed choice is something we support wholeheartedly.
15. An area which is of particular concern to the Legal Ombudsman is that of regulated solicitors practising within unregulated entities. We have previously set out our views on this matter in our full response to the SRA's 'Looking To The Future' consultation. However we would like to take this opportunity to lay out a brief summary of our ongoing concerns on this matter.
- We support the wider policy objective behind this proposal to provide greater flexibility for solicitors to deliver their services, and therefore give consumers greater access to competent and affordable legal advice when needed.
 - Nevertheless, 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. It is not yet clear how many firms and solicitors are likely to adopt this model and so the depth of the impact on our organisation does need to be clarified.
 - We remain concerned that these new provisions might make it significantly more difficult for us to deliver our entire complaints handling service. We encourage consideration of the implications of this policy across the wider landscape as this will affect the work of many bodies including our own.
 - When the Legal Ombudsman was set up it was envisaged that this would simplify the existing system for redress and reduce confusion among consumers. We are aware that the system for redress is still far from perfect and could be simpler for consumers. Therefore when we consider proposals such as these we always look at whether they simplify or maintain the existing arrangements, or if they are likely to lead to further complication and confusion. At this stage we believe that the proposals will complicate the system of redress and create confusion for consumers and service providers.

- 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 envisage difficulties in understanding who has actually undertaken work for the consumer, whether this can be evidenced and whether we have powers to request evidence.
- The SRA's strategy acknowledges that providing good quality information to consumers is essential, but we question how far consumers will understand the relationship they are entering into in these cases. 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.
- If a consumer brings a complaint about the service they have received, they will expect all elements of the case to be investigated. Yet there are likely to be situations where we will have to select which elements of a case we can investigate, and would not be able to comment on the actions of the firm.

16. Nevertheless, we would always be willing to devise new ways to deal with these jurisdictional difficulties, and look forward to working with the SRA, LSB and the Ministry of Justice to find solutions. We would be happy to explore all possibilities, including making changes to governance rules to include minimal regulation for providers who are currently unregistered.

Q.4 What in our Corporate Strategy 2017–20 do you think will make the greatest impact?

17. We believe that our organisation does not have enough information to comment on this matter, and it is not our place to speculate. We will, of course, be following the work of the SRA closely as this strategy is implemented.

Conclusion

18. Thank you for the opportunity to comment on the Solicitors Regulation Authority's new corporate strategy.
19. Overall, we believe this strategy identifies commendable objectives for the SRA in the coming years. These strike at the heart of some of the biggest challenges that we are seeing in the legal services market at the moment
20. As we have voiced previously in our response to the Looking To The Future consultation, we do have concerns about proposed changes to the rules governing the practice of regulated solicitors. However, we would be happy to work with the SRA on this to identify ways to overcome these new challenges.

For any questions about our response please contact our Parliamentary and Policy Associate at sarah.ritzenhaler@legalombudsman.org.uk.