



The Law  
Society

# SRA: Corporate Strategy 2020 - 2023

The Junior Lawyers Division  
response to the SRA consultation

January 2020

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#### Introduction

The Junior Lawyers Division (JLD) is a division of the Law Society of England and Wales with an independent representative voice. The JLD is one of the largest communities within the Law Society with over 70,000 members. Membership of the JLD is free and automatic for those within its membership group including Legal Practice Course (LPC) students, LPC graduates, trainee solicitors, solicitor apprentices and solicitors up to five years qualified.

The JLD wishes to highlight the points that are of particular concern to its members in the SRA's Corporate Strategy 2020-2023 ("the Consultation"). We have had the opportunity to read the Law Society's response and are broadly in agreement.

We will consider each of the objectives in turn, answering the questions posed where relevant to each objective.

#### **Objective one: setting and maintaining high professional standards for solicitors and law firms**

1. The new Solicitors Regulation Authority (SRA) Handbook ("the Handbook"), introduced in November 2019, will mean that the SRA needs to ensure that firms are compliant with the more flexible and less prescriptive rules. Further to this, and as with recent years, the next three years will be a time of significant change for the legal profession, particularly with Brexit and the impact it may have on (i) England & Wales being seen as the jurisdiction of choice, and (ii) the regulation of EU lawyers practising here. Notwithstanding this, in our view, the biggest change for education and training of solicitors will be the introduction of the Solicitors' Qualifying Examination (SQE), expected to be implemented in 2021.

#### Setting standards

2. We agree that setting professional standards to a consistently high level is an important aim and the role of regulator; however, the focus for the SRA as a regulator should be setting the regulatory rules to ensure high *minimum* standards. The SRA should not be focussing on many other ancillary projects to this core aim (such as some of the activities referred to in objective two, discussed further below).
3. The SRA should also ensure clarity and transparency in setting and monitoring standards by providing solicitors and law firms with sufficient guidance on how to comply with its regulations. While the SRA aims to "*relieve providers of legal services of unnecessary burdens that add cost and reduce flexibility*" with the Handbook, there is a concern that firms will adopt a more risk-averse approach in the coming years, until it is seen how the SRA will deal with enforcement of these new rules. This will

increase the cost of compliance for solicitors and firms. To alleviate these concerns, the SRA's enforcement strategy should be clear and properly communicated.

4. We note at page 11 of the Consultation that the SRA intends to “*monitor and evaluate the impact of [its] reform programme*” as well as “*monitor data on diversity within the profession and work with it and others to help to improve diversity*”. It would be helpful to be provided with details of how the SRA plans to do this, in order to consider the way in which the SRA plans to measure both impact and diversity. The SRA must be transparent in evidencing its monitoring, and the outcomes. This will increase trust in the SRA as regulator from the perspective of both the profession and users of legal services.
5. For example, in respect of the SRA's diversity monitoring, the JLD is concerned that the introduction of SQE will lead to a two-tier legal system, with individuals who can afford to take SQE preparation courses doing so, while those from lower socio-economic backgrounds cannot. There is also the concern, demonstrated by the results of the SQE 1 pilot, that individuals from a BAME background will be at a disadvantage. The SRA's regulations must ensure that there is a diverse range of individuals entering the legal profession, while at the same time promoting the public interest by ensuring that the minimum threshold for those qualifying is of a suitable standard. It should certainly not discriminate against any groups. The JLD's concerns regarding the SQE on these points have been outlined in previous responses to consultations and we refer you to the same for further details. We are yet to understand how the SRA intends to monitor the diversity data once the SQE is implemented, nor how it plans to work with that data to help improve diversity.

#### Maintaining and regulating such standards

6. It is important that the SRA's approach to enforcement and investigation encourages trust from the user of legal services and the profession that it regulates, as acknowledged in the Consultation. As is well-documented in previous correspondence we have had with the SRA<sup>1</sup>, the JLD is concerned about the lack of regulatory protections for junior lawyers in particular (for example, the lack of regulation of training contracts and training principals, and the lack of a mandatory minimum salary for trainee solicitors).
7. Developing these regulations will go a long way in ensuring that junior lawyers are protected, encouraging open reporting and transparency between the profession and the regulator and, ultimately, increasing the likelihood of consistent high standards in the profession. In the period 2020-2023, with particular reference to the SQE, the SRA has the opportunity to put in place regulations that act as safeguards to protect junior lawyers undertaking the qualifying work experience (QWE) element of the SQE, to ensure that aspiring solicitors are not exploited. At the same time, clarity and information for firms about such regulations and safeguards surrounding this new route to qualification should ensure the same aim.

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<sup>1</sup> <https://communities.lawsociety.org.uk/news/jld-fights-for-protection-of-junior-lawyers/5067494.article>

8. We welcome the SRA's commitment to collaborating and engaging with professional and representative bodies. We invite the SRA to continue its dialogue with the JLD, particularly around the introduction of SQE, and other relevant stakeholders.

**Objective two: supporting the adoption of legal technology**

9. The JLD has been vocal in its support for LawTech and supporting its members' development and understanding in this area. We are concerned, however, that this objective does not fit within the remit of the regulator. The SRA, as a regulator, should help to foster an environment in which legal technology can thrive, rather than being an active promoter and influencer of it.
10. We would like to see further information relating to how the SRA intends to build its understanding of the *"unmet needs of users"*, given that this is likely to vary vastly from firm to firm, and from practitioner to practitioner. Again, we are concerned that it is not within the remit of the regulator to *"work with providers and innovators to help to address these needs"*. We would expect the regulator to work with providers and innovators to outline the regulatory requirements needed, to preserve and uphold the professional standards but not waste its resources undertaking work outside of its scope.
11. It is understood that support for legal technology is an area in which the SRA currently assists, with its Innovate programme. It should, however, ensure that it communicates directly with practitioners to promote this programme more effectively. We believe that legal professionals generally are not aware of efforts being made by the SRA in this area.

**Objective three: building the understanding of emerging opportunities and challenges for the legal sector**

12. We consider this objective to be too broad in scope to be impactful or achievable. There will be considerable changes to the legal profession in a short period of time, some of which have been driven through by the SRA itself. The SRA should focus its resources more on ensuring high professional standards and working in a fair and transparent way.
13. It is noted that the SRA's reform programme is *"designed to increase access to justice"*, and that the SRA acknowledges that its work should be *"in line with [its] regulatory objectives"*. While general horizon scanning can assist the SRA in understanding the wider issues affecting the profession and can therefore develop its future regulatory policies as a result, we are again concerned that this objective falls outside of its scope of work as a regulator.
14. It is positive that the SRA intends to deepen its understanding concerns and requirements of users of legal services, but the focus should also be on understanding the "stakeholders", to include law firms and solicitors, and not just the general public. Working in the public interest is of the utmost importance, however,

so too is understanding the concerns of the individuals and entities that the SRA regulates.

## **Conclusion**

In the coming years, the SRA should focus on ensuring that law firms and individuals alike are adequately prepared for the introduction of SQE, so that the high professional standard of solicitor in England and Wales is maintained. The JLD is concerned that this was not more explicitly referenced in the Consultation, given the impact that it will have on the way in which one can qualify as a solicitor and the negative impact it is likely to have on diversity and access to the profession.

The SRA should be careful not to let its focus stray into areas of non-regulatory work which are best suited to being carried out by other bodies but should continue to focus on maintaining high minimum standards in the profession.

As regulator the SRA should ensure it is continually researching and understanding the issues faced by users of legal services, and those delivering those legal services. We would assume that this role requires a balancing of the two to ensure delivery by solicitors of a high-level service and trust from the users of legal services in solicitors, which includes education of the public to ensure a better understanding of the protections and benefits of contracting with a solicitor. We believe this role falls to the SRA as regulator.

To summarise, we believe the SRA should concentrate on:

1. setting high professional standards for solicitors and law firms to ensure the protection of users of legal services;
2. forming policies and regulations based on well informed research (by engaging with the users of legal services and those it regulates on the issues they are facing) to ensure a trust in solicitors by the general public and users of legal services, and the delivery by the solicitor of high-level services;
3. in providing more flexibility in its regulations, the SRA have a responsibility to ensure that they are transparent in forming these regulations and sufficient clarity is given to those that must abide by these regulations. This includes the SRA being more transparent about its decisions to enforce regulations (anonymised case studies, for example, detailing why the SRA took action against the firm or individual) and providing clear guidance to solicitors and firms about regulatory changes to ensure that there as few as possible unanswered questions from the profession.

We welcome the opportunity to respond to consultations such as this one, and hope that the issues outlined are taken into consideration, even though it is already the year 2020 and therefore the period in question.

*The views expressed in this consultation response are those of the Junior Lawyers Division and do not necessarily reflect the view of the Law Society of England and Wales or any other organisation unless stated.*