



THE INSTITUTE
OF CHARTERED
ACCOUNTANTS
IN ENGLAND AND WALES

21 April 2008

Our ref: ICAEW Rep 46/08

Your ref:

Margaret Hope
Solicitors Regulation Authority
Berrington Close
Ipsley Court
Redditch
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By email: LSA@sra.org.uk

Dear Ms Hope

CONSULTATION PAPER 2: CHANGES TO “FRAMEWORK OF PRACTICE” RULES

The Institute of Chartered Accountants in England and Wales (the Institute) welcomes the opportunity to comment on the consultation paper *Changes to “Framework of Practice” Rules* published by The Solicitors Regulation Authority in February 2008.

The Institute operates under a Royal Charter, working in the public interest. Its regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the Financial Reporting Council. As a world leading professional accountancy body, the Institute provides leadership and practical support to over 130,000 members in more than 140 countries, working with governments, regulators and industry in order to ensure the highest standards are maintained. The Institute is a founding member of the Global Accounting Alliance with over 700,000 members worldwide.

General comments

We welcome the SRA’s development of firm based regulation as we agree this is usually less burdensome than regulation targeted at individuals. We support steps which reduce unnecessary burdens on firms. We urge the SRA to keep in mind that some LDPs will require ABS licences when Part 5 comes into force. Measures introduced should not result in further restructuring for firms simply as a result of transferring from the LDP temporary regime to the full ABS.

Whilst we support the thrust of the SRA’s proposals we have a number of significant concerns and areas of disagreement.

Transfer of non-lawyers between firms

We strongly disagree that non-lawyers who have been approved under new rules should be made to reapply for approved status when they move between firms. It should be sufficient to seek a declaration that nothing has changed.

Any rules applied to non-lawyers moving between firms should also be applied to solicitor managers moving between firms.

Restructure of existing firms

We are surprised that the changes to the Legal Services Act, during its passage through Parliament, resulted in restrictions which may require the firms who are currently able to operate in accordance with the rules to restructure. We do not believe this could have been intended and observe that it cannot be in the consumer interests or the interests of business to force the restructure of firms which are currently operating appropriately. Any such changes should be required on the basis of addressing risk and should not be introduced as a result of an inadvertent consequence.

We suggest that the SRA seek clarification and, if necessary, amendments to permit the continuation of current firms.

If this remains the position it is sensible to allow such firms to continue as they are unless and until they seek to admit non-lawyers, to receive outside investment or otherwise restructure, provided they continue to comply with pre Legal Services Act rules.

Disapplying the SRA's requirements to non-SRA authorised firms

We endorse the SRA's efforts to minimise the unnecessary duplication of practising requirements in this respect.

Participation of lawyers in LDPs

We are concerned that there may be an unintended consequence for dual qualified individuals, who hold qualifications in both legal and non-legal disciplines, flowing from amendments to the Solicitors Act.

For example accountants provide a range of unreserved legal services, particularly in the areas of tax and company law. Accountant managers in LDPs are likely to provide a range of services which could fall within the definition of a legal service under the Legal Services Act, albeit that such services do not require authorisation.

In our view if dual qualified persons also happen to be qualified as solicitors but

- practise under a non-legal qualification
- do not publicise or use their status as a qualified solicitor in connection with service provision, and
- do not provide reserved legal services

they should not be deemed to be practising solicitors. Compliance with additional requirements will represent a burden and may result in such individuals being forced to surrender their status as lawyers in preference for the qualification under which they practise, without there being any identifiable benefit to consumers, business or the public.

We urge the SRA to provide clarification and/or seek to amend the underlying requirements as necessary. If the effective removal of the non-practising status for these individuals remains the SRA should ensure that those dual qualified individuals who are affected are made aware.

Specific questions in respect of which the ICAEW has comments

- 1. Do you agree that a solicitor in an “authorised non-SRA firm” should be able to provide a reserved legal services to the to the firm itself, work colleagues, related bodies or pro bono, even if the firm is not authorised to provide services of that sort?**

Yes, we support this proposal.

- 6 Do you agree that most of the Code should be disappplied in relation to the work a solicitor in an “authorised non-SRA firm” does for clients?**

Yes, we support this as a sensible measure to avoid duplication of regulatory oversight.

- 9. Do you agree that a solicitor, REL or RFL should only participate in a recognised body or authorised non-SRA firm as a lawyer?**

We understand that the SRA’s position arises from amendments to section 1A of the Solicitors Act. However we believe this was introduced to prohibit lawyers from circumventing the requirements placed upon them under the Legal Services Act and not to restrict persons genuinely qualified across legal and non-legal disciplines from acting within the perimeters of their non-legal qualifications. We have concerns regarding the impact on dual qualified persons who offer unreserved legal services (eg tax and company law) and who practise under another qualification but also happen to be qualified as a solicitor. See also comments above.

- 10. Do you believe any of the proposed amendment to the rules annexed will have a particular impact (adverse or otherwise) on any group or category of persons?**

See above comments in respect of the movement of non-lawyers between firms and the impact on dual qualified professionals providing unreserved legal services (eg tax and company law) in a recognised body or non-SRA authorised firm.

- 11. Have you any other comment on the draft amendments to the rules?**


We recommend that the SRA re-examines the position regarding 14.01 (3) and the underlying law. Requiring certain pre-existing firms to restructure cannot have been an intended consequence. The changes to section 9A were introduced to permit the

early introduction of LDPs in advance of Part 5, not to address a threat arising from a firm which is a body corporate having a manager which is in turn a body corporate. Subjecting firms to potentially costly and burdensome restructuring in this case cannot be said to be in accordance with the principles of better regulation.

We suggest that rule 21.02 (2) would benefit from inclusion of some of the services which dual qualified members may practice, for example accountancy. It does not seem equitable to prevent a dual qualified professional from acting in an unreserved area under a qualification, other than as a solicitor, simply by virtue of operating from within an LDP (and in future an ABS).

Please contact me should you wish to discuss any of the points raised in this response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bradshaw', with a stylized flourish at the end.

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