



Are we an endangered species?

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The SRA has recently launched a consultation on a new Competence Statement for solicitors which defines the standard for initial admission to the profession and for continued competence to practise.

The Competence Statement is accompanied by a “*Threshold Standard and underpinning Statement of Legal Knowledge*”. It is said that these Statements have all been developed in consultation with a wide range of stakeholders including “*practitioners, legal educators and consumers*”. The consultation which runs until 12 January 2015 is part of the SRA’s Training for Tomorrow project which includes the changes to the CPD requirements.



profession will prosper by increased regulation of the legal services market. The emphasis needs to be elsewhere.

The legal services market is now more than ever “*open to all*” unlike other areas of professional life. In a case¹ last year involving the General Dental Council, the Administrative Court held that tooth-whitening was a treatment “*usually*” performed by dentists and therefore constituted the

Setting the standards is critical work for the future development and indeed survival of the profession against ever increasing competition from non-solicitors. Joining the Bar, legal executives, costs lawyers, licensed conveyancers and patent and trade mark attorneys, the Institute of Chartered Accountants (ICAEW) became a licensing authority in August 2014. It is permitted to license accountants wanting to carry out probate work or form ABSs and expects to license 250 accountancy firms in the next few months. Interestingly, the ICAEW has been excused by the Legal Services Board from the requirement to have a separate regulatory body. An independently chaired Probate Committee has been deemed as satisfactory.

Our own profession has relied over the years on the four main reserved legal activities - advocacy; conduct of litigation; probate and conveyancing – as the backbone of business. Reserved work continues to be regulated via the Legal Services Board and the approved regulators referred to above. Non reserved work on the other hand is unregulated and likely to remain so.

The Legal Services Act set up the current regime relating to reserved legal activities and further dilutes the solicitor (and barrister) brand by referring to those who can provide one or more of these services as “*authorised persons*”. This is part of the trend which seeks to undermine the concept of a profession.

Current political dogma is that further regulation of the legal services market is unnecessary. The Ministry of Justice has recently made it clear that it is not in favour of any form of regulation for will-writing. It is therefore unlikely that the

practice of dentistry under the Dentists Act 1984. Therefore, a person not qualified as a dentist was prohibited from providing such treatment. The court stated: “*The public had to be protected from treatment by those not qualified to give it*”.

Amidst this confused market place, the SRA’s Competence Consultation is an opportunity to focus on the macro rather than the micro aspects of the standards of the profession – where are solicitors placed in the market? Where will they be in the future? What do they need to differentiate themselves from the competition?

If we are to continue as a separate profession, we must avoid being left with no professional advantage to distinguish us from the many others now authorised to deliver the very same legal services. What will mark us out in the future? What do they need to do to differentiate themselves from the competition?

We should campaign as part of this consultation for the very highest standards for our profession in terms of legal knowledge and ethics. We should concentrate on quality not quantity. It is only through our profession being held up as the gold standard that we will continue to thrive and survive. The debate needs to be as wide as possible to achieve this goal. ■

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