



FUTURE REGULATION OF LEGAL SERVICES

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Last month's Birmingham Law Society conference on the Future of Legal Services provided some valuable insights into the legal world as it may well take shape following the implementation of the main elements of the Legal Services Act 2007 later this year. As you will have already read, the conference was populated with high profile speakers from the world of legal regulation and practice. Expertly chaired by Joshua Rosenberg all of the speakers were refreshingly open and honest about their hopes and fears for the new regime. It was therefore a privilege to chair one of the afternoon sessions and participate first hand in the debate which prompted further thoughts on future regulation.

At present the majority of legal advice given in this country is through solicitors' practices. Many firms struggle to provide the level of income that their proprietors would hope for, but society is served with a wide selection of legal services more or less wherever they are required. The essentially local nature of solicitors' firms means that most members of the public receive advice from firms that are owned and run by solicitors.

Key to understanding the complex regulatory changes that are now taking shape is to understand the concept of reserved legal activities – the work that is reserved by law for solicitors or, in some cases, other lawyers to undertake. Where work does not fall under one or other of these headings there are no statutory controls over who conducts it, nor are there necessarily any corresponding regulatory controls. Thus it is that employment lawyers find themselves competing with HR consultancies and, perhaps more surprisingly, private client lawyers with will writing agencies. As from October this year, however, the new 'alternative business structures' – or 'licensed bodies' as they will then be known – will be able to provide whichever of the reserved legal activities that they can show they are competent to deliver and which that regulator – the SRA or other- is permitted to license.

One of the most interesting themes of the BLS conference was how the public will fare with the new choice of providers. Remember the days of directory enquiries at BT? There was one number that everyone used and the price was known, but this was felt to be uncompetitive and the market was opened up. Who

now knows how many numbers there are and which is the cheapest or the best? The analogy might not work precisely, but we are perhaps facing similar risks with the market for legal services. How will a member of the public be able to evaluate a traditional law firm with the 'solicitor' brand as opposed to a bank, a supermarket or a commercial concern? Will there be I asked David Edmonds of the Legal Services Board, an overarching regulatory 'badge' that all regulated concerns will be able to use to distinguish them from the unregulated providers of non-reserved legal work?

Ironically, the Clementi review of 2003 that triggered the process we are now engaged in concluded that there was a "regulatory maze" and the Legal Services Act 2007 was introduced partly to solve this problem. In fact we are likely to finish up with at least eight regulators who will be permitted to license ABSs and to authorise more traditional practices. At present the SRA and the Council for Licensed Conveyancers have been approved by the Legal Services Board as licensing authorities and are awaiting Parliamentary approval. More regulators such as the Institute of Legal Executives, the Bar Standards Board and even the Institute of Chartered Accountants are likely to follow suit.

There are two fundamental questions here – should there be one regulator of legal services just as the Financial Services Authority is the sole regulator of financial services? Charles Plant Chair of the SRA has raised this previously and is in favour. Secondly should all legal advice and services be regulated? Will writing is being considered as a regulated activity and more could follow suit.

However this would not be necessary if there were only one regulator. The public could then be made aware that they should seek legal advice only from firms authorised by the sole legal services regulator instead of trying to choose between the eight or so regulators on offer.

Only lawyers and politicians could have made things so complicated! ■