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WHERE NOW FOR THE SRA AND ITS FINANCIAL STABILITY REVIEWS?

Earlier this year the SRA unveiled its 'Risk Outlook 2013' at a major conference here in Birmingham. The risks were categorised as *'current, emerging and potential'*. It is perhaps no surprise that top of the list of 11 major considerations was *'financial difficulty'*, with even the most cursory checks of the legal publications reporting time and time again on the adverse factors bearing down on law firms of most types and sizes.

Continuing this rather gloomy theme the SRA has now reported on a large scale exercise that it undertook earlier this year to probe the finances of about 2,000 firms that were known to be reliant upon personal injury or legal aid work. Explained as being part of its work to *'help firms struggling in tough economic times'* around 700 of these firms were already under *'active supervision'*. Of the remaining 1300, about 1,000 firms (77%) provided financial information and 300 failed to respond.

At the time of writing this article the SRA is still assessing and evaluating the information that it has collected, but in a recent *'glass half full'* announcement it is reported that *'around 50% of the firms that responded are not scoring at all on any of the financial indicators, demonstrating that there is no evidence of financial difficulty requiring engagement at this stage'* No doubt many such firms (500 in total) will be wondering why they were put to the trouble of responding to the SRA when there were, apparently, no problems to report. It seems a fair question to ask why a financially stable firm should be required to spend management cost and time - in some cases instructing external accountants - in order to assist the SRA in its understanding of the sector. Some may feel that on this occasion the SRA has acted more like a research institute than a regulator.

Well managed firms are already aware of their duty to report to the SRA should they be undergoing *'serious financial difficulty'* as per Outcome 10.3 of the Code, meaning that there should be no need to require solid firms to respond to surveys for the SRA's benefit.

One must also question the significant SRA resource being expended on *'active supervision'* of those firms which are in financial difficulty, especially as such firms do not contribute to the cost of that exercise. Does the rest of the profession consider it justified to fund the work with these firms in helping to nurse them back to financial health, or would the SRA be better served simplifying and streamlining the procedures for firm takeovers and closures? The barriers to a take-over can be substantial if a narrow view of client confidentiality is taken, making it difficult to transfer a body of work to a more secure operation.

All in all it does seem that a considerable amount of the SRA's time and energy is being spent on firms in financial difficulty at the expense of its other services. We are all aware of reduced activity on the investigation and disciplinary front and the 30% reduction in applications to the Solicitors Disciplinary Tribunal during the last 12 months. Applications for authorisation even as a sole practitioner are estimated to be taking around 15 weeks.

The Supervision Team is expanding to deal with the increased workload. A recent open day at the Cube encouraged interest from potential candidates *'to liaise with law firms on a regular basis, advising them of potential risks and ensuring their conduct is in the best interests of their clients'*.

It is now two years since the concept of *'outcomes-focused regulation'* was imposed upon the profession. Two of the most senior personnel responsible for this strategy have recently announced their departures for pastures new. Is it now time for the profession to ask whether the SRA is pursuing the right priorities in the most appropriate manner? ■

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