

Is the sun setting on our way of life?

If the responses on a single regulator from the SRA and Law Society are anything to go by yet more change is on the horizon, says **Susanna Heley**

The responses of various bodies involved in legal regulation to the Ministry of Justice's Call for Evidence demonstrate very clearly some of the current problems facing the legal profession.

The SRA and the Law Society have both put in responses underlining current tensions between the two bodies with each effectively calling for the other to be stripped of power and/or influence over aspects of regulation. In fairness, there is no clear delineation between regulation and representation in the world of the Legal Services Act; at least three of the regulatory objectives contain elements which may properly fall into the category of representation rather than regulation as it has been traditionally understood. It is perhaps no surprise therefore that the SRA increasingly seems to be adopting a stance which the profession may regard as beyond the scope of a regulator.

Confusion

The Legal Services Consumer Panel unsurprisingly cites consumer confusion arising from the sheer number of bodies involved in regulation in support of its suggestion that we should have just one regulator.

The Legal Services Board thinks that we should throw away all established thinking and start afresh with a simplified regulatory model culminating in

the abolition of all existing legal services regulators and the ultimate introduction of a brand new single independent regulator. It goes on to propose an action plan to be undertaken while that model is in development.



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The criticism levied at the existing regulators by the LSB is that they are too conservative in their thinking; they are not willing to embrace change and are too wedded to established principles. In the LSB's view, the Legal Services Act did not go far enough in driving change; it allowed progress rather than demanded it.

The LSB's response makes absolutely clear its view that regulation should be targeted to protect the vulnerable and focus on access to justice; by implication there is no need to

regulate large firms with corporate clients larger than micro-enterprises. That market should, in effect, be self regulating. The LSB's view seems to be firmly in favour of regulation differentiated by the sophistication of the consumer and the nature of the service provided. Adoption of this approach would likely mean the end of the legal professions as they are now.

The LSB, as an interim measure, wants the power to "call in" regulations which it believes to be unnecessary or not sufficiently focused on genuine risk. The example cited is the SRA's separate business rule which the LSB has long had its eye on. At the beginning of 2013, the LSB sought to force the SRA to review the rule and the SRA responded to the effect that it has more important things to be getting on with for the time being.

No timescale

There is a certain amount of scepticism as to whether the MoJ will take any action in light of the call for evidence. While the MoJ has claimed that it will act on the information received, there has been no indication of the likely timescale moving forward.

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enough. It seems that all agree that it represents an unhappy compromise, however there is little agreement on just what the real problem is.

For the profession though, the real news is that more change is inevitable. How radical and how soon depends on which submission the MoJ finds most persuasive. The LSB's response effectively plays on the government's stated long-term objectives as it talks of reducing regulation and it is likely that the criticism of existing regulators will find some resonance with those making the decisions in the longer term.

For now though, for those of us tasked with dealing with the regulatory maze on a day-to-day basis, we have the immediate pleasure of the 8th edition of the SRA Handbook to look forward to shortly before the second anniversary of the Handbook in October. **SJ**



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