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INSURANCE BROKERS

# SRA Handbook Consultation Bulletin - A Threat to the Traditional Practice?

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## Two Codes of Conduct, one of which enables solicitors to provide unreserved legal services through unregulated entities.

Whilst you will be aware of the wider SRA Handbook Consultation discussions, have you considered its implications to your practice in terms of the potential impact should these specific changes be effected?

You may already have offered your views to the Law Society who have of course been very active in seeking feedback from across the country.

As Professional Indemnity Insurance (PII) specialists within the solicitors' sector and without wishing to jump the gun, we thought we'd raise a few pointers ourselves from our own perspective re the impact some of these changes might have on yourselves if faced with what is effectively further competition but now from an unregulated sector that is not required to carry PII.

Here we'd point you to the very informative case studies issued by the Law Society giving individual focus to commercial firms, small firms and sole practitioners amongst others. In summary, could this have a detrimental effect on this cross-section of law firms due to the common threats below?

- As a regulated firm, you are of course required to maintain PII cover and to contribute to the Solicitors' Compensation Fund (SCF); for most, a significant capital cost. Is this to be the case with the unregulated firm? Under current proposals - No. There is no requirement for them to either hold PII or to contribute to the SCF.
- If the unregulated entity did elect to carry PII cover, would that cover be on a par with the very wide Minimum Terms & Conditions (MTC) you carry

yourselves? Almost certainly not. For many unregulated firms it may even be the case that PII cover is not available at all, for others the cover will be narrower, whether by way of lower limits of indemnity, aggregated cover, additional exclusions (e.g. re client money). A narrower cover however would likely cost somewhat less than the wide MTC you buy yourselves.

- Clients may be able to complain about the solicitor holding a practicing certificate within the unregulated entity. If however the solicitor leaves, an unregulated employer will not be obliged to deal with that matter. Should that matter be related to professional negligence and no PII cover is in place, what then?
- No SRA Enforcement rules for the unregulated entity. You will be aware of SRA activity in this area over recent years and the costs associated with this, some of which filters down to yourselves indirectly. The MTC PI rules have arguably meant that to some degree a certain amount of these costs might have been borne by PII Insurers in settling matters that might otherwise have led to greater enforcement activity – and if so potentially higher premiums to the profession. Debateable perhaps, but highlighting again a potential cost differential here also.

Of course, there are other areas of concern for many within the profession; whether over conflicts, client money issues, supervision, COLPs/COFAS etc. and adding these to the additional costs faced by the regulated v the unregulated, points to a negative impact upon the traditional mixed discipline, regional high street practice in particular.

It is fair to say there is some opposition to these proposals. MFL Professional, for our part, will continue to monitor and inform where we feel concerns ought to

be highlighted, though there are of course proposals within the Consultations that conversely might prove of benefit to your firm's PII position – third party managed accounts maybe?

Whatever the outcome, we shall of course ensure that all aspects are appropriately covered off with PI Insurers so as to achieve the maximum benefit to yourselves as a practice.

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## Contact the MFL Professional team to discuss your PI arrangements:

T: 0161 236 2532  
W: [www.m-f-l.co.uk](http://www.m-f-l.co.uk)

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MFL Professional has extensive experience in arranging insurance programmes for, and providing advice to, professionals from small businesses through to some of the largest practices in the United Kingdom.

### Fax Back Form

To: MFL Professional

Fax No: 0161 236 2583

We would ask that you contact us in order to discuss the issues raised above. Please contact us as follows

Practice:

Contact name:

Tel. No: