

# The Legal profession workshop

## Riding the perfect storm

### SPEAKERS

#### **Mike Fortune**

Portland Business Support & Advice

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Verisona Law

#### **Viv Williams**

360 Legal Group

### VENUE

The Haven Hotel

### DATE

Tuesday 3rd December 2013



**Portland**

Business Support & Advice

# About Portland

- ◆ Leading south-coast business rescue firm
- ◆ Six qualified Insolvency Practitioners
- ◆ 25 staff
- ◆ Three offices – Hampshire, Dorset and London

The way forward, **made brighter**



# Providing cashflow relief



The way forward, **made brighter**



# The Legal Profession – Changes to the landscape and the approach of the SRA as regulator

**Nick Oliver**

Director  
Verisona Law

## Overview

1. Why could it be a perfect storm?
2. The role of the SRA as regulator
3. Financial stability – Regulatory requirements
4. The SRA's 'Financial Stability Programme'
5. Intervention – what happens
6. SRA's message to firms in financial difficulty
7. SRA's "Poor" and "Good" behaviours

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## 1. Why could it be a perfect storm?



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### What changes are coming (or are already here)?

#### What changes?

- Legal Services Act 2007
- New regulations
- Changes to Civil Litigation costs
- Changes to the Personal Injury market
- Changes to Legal Aid
- Changes to the professional indemnity insurance market
- Hardened attitude of HMRC
- Changes to bank lending
- Economy



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## Legal Services Act 2007

- 24 July 2003 - The Secretary of State for Constitutional Affairs appointed Sir David Clementi to conduct an independent review:

*“to consider what regulatory framework would best promote **competition, innovation** and the **public and consumer interest** in an **efficient, effective and independent** legal sector.”*

This paved the way for the enactment of the Legal Services Act 2007



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## Legal Services Act 2007- Objectives

**Two primary aims:**

1. To **simplify** and **improve** the **regulation** of legal service provision in England and Wales; and
2. To create a **framework** within which **legal services may be provided in new ways.**



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## Legal Services Act 2007- Key provisions and effect

- **Legal Services Act 2007**
  - ‘Alternative Business Structures’ (“ABSs”) – aka ‘Tesco Law’
  - New regulatory framework
  - Implemented 6<sup>th</sup> October 2011
  - UK was to have the most deregulated legal services market in the world

*“The reforms introduced by the Legal Services Act have been described as the legal equivalent of the City of London’s “Big Bang” in 1986...”*

*The provision of legal services will change radically in the next five years with consolidation, external capital, new entrants and mergers with other professionals. Those who are best prepared will be in a strong position to take advantage.”*



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Financial Times  
28 December 2010

## Legal Services Act 2007- What is an ABS?

### **Alternative Business Structure (“ABS”):**

- Enables **non-lawyers to share the management and control** of a business that provides **reserved legal services** to the public
- Allows **external investment** in and **ownership** of law firms
- Structure – minimum requirements:
  - At least one lawyer ‘manager’ who is legally authorised to provide legal services to the public; and
  - At least one ‘manager’ or owner who is a ‘non lawyer’



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## Legal Services Act 2007- How will the market adapt?

### **Some of the issues as a result of the changes:**

- Access to clients by powerful existing non legal organisations such as retailers, insurers and banks
- New business structures
- External investment
- A changing market and increased competition

### **But also having an impact:**

- Changes in technology
- Availability of outsourcing



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## Legal Services Act 2007- What will an ABS look like?

### **The SRA's view:**

*"We cannot, nor should not try to second guess what the market will want. It will be for the market to decide on the ABS model it wants and then, hopefully, for consumers to benefit."*

SRA, 8 November 2010



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## Legal Services Act 2007- What will an ABS look like?

### **The Law Society's view:**

*"Some ABSs will not be competing openly for clients on the high street, but will already be acting for the client in some other capacity, whether as claim farmers, providers of household content insurance, or even funeral directors."*

Linda Lee, President of the Law Society



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## Legal Services Act 2007 - Not just ABSs!

### **Quality Solicitors**

- Network of law firms under the QualitySolicitors brand – structured in such a way that they do not require an ABS license.
- QualitySolicitors is a grouping of law firms in the UK
- Following a franchise-type model based on independent ownership of small to medium High Street law firms trading under one brand name but sharing national marketing campaigns



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## Legal Services Act 2007 - New ABS: Co-Op

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- In September 2012, Co-Op launched its new family law arm
- 500 staff at its headquarters in Bristol
- Ambitions to recruit 3,000 lawyers in five years
- Low-price, fixed fee tariff for family work
- Well placed in context of legal-aid reforms which will strip publicly funded legal advice in family law except for domestic violence cases.



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## Legal Services Act 2007 - New ABS: Stepsons

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- In January 2013, leading north-west firm Stepsons announced it was seeking external investment as part of its plans to expand beyond the region
- 420 staff in 10 offices across the north-west
- Long term plan to secure external investment (for greater advertising, technology and geographical expansion) to help grow the business  
*"To get to a wider market, we need access to capital"*
- Third largest supplier of civil legal aid services to the Legal Services Commission - the Commission will still have a multi-million pound budget but is looking to reduce the number of suppliers



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## Legal Services Act 2007 - New ABS: Rocket Lawyer

- Rocket Lawyer (LegalZoom's rival in the US that has financial backing from Google) has recently entered the UK market.
- Provides individuals and small to medium sized businesses with online legal services:
  - incorporation
  - estate plans
  - legal health diagnostics
  - legal document review including allowing customers to create free legal documents
- The site also provides a network of lawyers that consumers and small businesses can consult with on legal issues through its 'On Call' service.
- In the US, RocketLawyer has received \$43 million in funding and generates over \$20 million p.a.



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## Legal Services Act 2007 - New ABS: Knights

- Former Dragon's Den investor James Caan is investing in a Stoke based practice, Knights Solicitors
- Plan to grow the business into a top-100 UK practice in three years
- Aims to strengthen its core practice areas of corporate, real estate and commercial and carry out more work outsourced from the City.
- 23 partner firm - 150 staff across 3 offices
- Turned over £9.2m in the 2010-11
- 180th position in the UK by annual revenue



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## Legal Services Act 2007 - New ABS: Knights

### So why is he getting involved..?

He encountered a profession dogged by the partner structure, failing to build a lasting relationship with clients and with too little focus on making money.

*“A lot of people said this is not how this industry works: we’re about service, and profitability was a dirty word”*

*“The minute a business forgets the reality of why it is there it will never grow. Every day you walk into the office you’re looking to make a profit. Being ashamed or embarrassed is not how you grow – every business I invest in, I’m not ashamed that is the strategy.”*



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## Legal Services Act 2007 – New entrants?

- RBS
- Aviva
- SAGA
- Direct Line
- AA

Neil Rose, Guardian.co.uk, Friday 12 October 2012



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## Legal Services Act 2007 – Crystal ball gazing

*“High-Street legal services will be fundamentally transformed by the Legal Services Act. A number of major brands will dominate the provision of retail legal services. Will that be law firms, or outsiders such as supermarkets or banks? It is too soon to tell whether existing law firms will be able to develop strong enough retail brands.”*

Tony Jomati  
Former managing partner at Clifford Chance



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## Legal Services Act 2007 – Crystal ball gazing

*“It is likely that these alternative business structures, fuelled by external investment and driven by experienced business managers, will standardise, systematise, and package legal services and bring cost savings, efficiencies, and experience that the traditional, small firms will find impossible to match. This will be the end of lawyers who practise in the manner of a cottage industry”.*

*‘Tomorrow’s lawyers: An introduction to your future’*  
Professor Susskind



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## Legal Services Act 2007 – Crystal ball gazing

*“I don’t think there will be a ‘big bang’ but we will look back in a few years and realise there has been a significant change”*

Professor Stephen Mayson  
Director of the Legal Services Institute at the College of Law



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## New regulations – An overview

**With fundamentally different business structures came a need for a new regulatory regime and new/modified regulators, authorised by the Legal Services Board**

- **Issues considered by the regulators:**
  - The move to ‘outcome focused’ regulation – away from rigid rules, towards flexible outcomes-focused requirements
  - The need for a new set of regulations that apply in the same way across all business models (old and new)
  - How regulations can be drafted to fit new business models
  - How to deal with overlapping regulatory regimes that will occur with multidisciplinary practices



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## **New regulations – The SRA’s approach**

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### **The SRA’s new regulatory framework, for ‘old style’ firms and ABSs includes:**

- A new set of core principles defining ethical and professional standards
- New ‘outcome focused’ regulations and Code of Conduct set out in a new Handbook
- The need for two new statutory officers:
  - Compliance Officer for Legal Practice (“COLP”) – for ensuring compliance with the rules in general and any statutory obligations; and
  - Compliance Officer for Finance and Administration (“COFA”) – for ensuring compliance with SRA accounts rules



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## **New regulations – Additional burdens**

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- Changing and challenging regulatory environment. New Code of Conduct with new rules and procedures.
- A firm that is a recognised body but not planning to convert to an ABS, still needs a COLP and COFA.
- Firms will need to proactively manage this process, and will also need to consider delegation of their responsibilities and obligations during those periods when they may not be personally on-hand or available to deal with the issues captured by those roles.
- The new regulatory environment is likely to impose additional costs on law firms. Some of these costs will be direct financial burdens, while others will be linked to the management involved in ensuring that a firm meets its regulatory responsibilities. Particular problem for smaller firms.



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## Changes to Civil Litigation costs - LASPO

- Legal Aid, Sentencing and Punishment of Offenders Act - came into force in April 2013
- Bringing most of Lord Justice Jackson's recommendations into full effect
- Abolishes the recoverability of success fees and associated costs in conditional fee agreements (with a big knock on impact to the personal injury market)
- Fundamental changes to the way personal injury claims costs are recovered



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## Changes to the Personal Injury market - LASPO

- A ban on referral fees
- Preventing the recovery of 'Additional Liabilities'
  - 'After the Event' insurance premium and success fees from the other side
- Other changes
  - Fixed costs regime for road traffic accidents via an online portal system will be extended to employers' and public liability claims.
  - RTA fixed-fee costs reduced.



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## Changes to the Personal Injury market - LASPO

- Until recently, PI practice has been “bucking the trend” and benefitting from increased case volumes
- Firms have appeared to be “advertising, growing, and becoming more productive”
- The reforms as a result of LASPO are predicted to inhibit or reverse these trends
- The likely response to such changes is that firms will be driven to consolidate to take advantages of any applicable economies of scale



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## Changes to the Personal Injury market - LASPO

*‘Lower margins will demand a level of business efficiency that many firms will struggle to attain. I see a dozen or so national firms receiving the work that is currently distributed among the many. In the urban environment, many PI practitioners will cease practising or lose their employment.’*

Simon Allen,  
Head of PI at Russell Jones & Walker  
December 2012



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## **Changes to Legal Aid - LASPO**

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- Radical changes to the provision of civil legal aid as a result of LASPO
- Legal aid for the most common types of family law work (a large part of the traditional workload of High Street firms) withdrawn
- £320m slashed out of the annual £2bn legal aid budget
- Significantly reduced volume of work and gross fees available to legal aid firms



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## **Changes to the insurance market - ARP**

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- Insurance must be obtained from SRA approved “Qualifying insurer”
- Assigned Risk Pool (ARP) set up by the Law Society to protect the public by providing cover for solicitors unable to get cover on the open market.
- Key changes to Assigned Risk Pool (ARP)
  - From October 2013, the ARP was replaced with a system where insurers offer a three-month extended policy to firms which cannot obtain PII for the following year. A firm may continue to practise while attempting to obtain a policy for the first 30 days of this extended indemnity period.
  - For the remaining 60 days - the ‘Cessation Period’ - firms may only work on existing instructions while attempting to find insurance, or conduct an orderly closure in the case that insurance is not obtained.



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## **Changes to the insurance market - ARP**

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- In the event of closure, insurer in place at the time of closure will be liable for providing 6 year run-off cover
- Insurers reviewing their risk assessments and underwriting criteria in preparation for prospect of being lumbered with providing run-off cover for firms
- As at 1 October 2013, 185 firms had failed to get cover



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## **Changes to the insurance market – Hard market**

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- Some qualifying insurers exiting the market
  - Balva – Previously covered 1,300 firms. Liquidation in July 2013
  - XL – Exited market for 1-3 partner firms in August 2013
- Some qualifying insurers narrowing types of firms to which they offer cover
- Firms with more than 25% conveyancing had particular difficulty getting cover
- An increase in the amount and value of claims
- Some insurers now looking for detailed financial information from firm's as part of their proposal



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## Hardened attitude of HMRC

### **The new 'tough' HMRC**

- HMRC are becoming much less lenient with businesses that are having difficulties in settling their tax liabilities
- Instructing more advisors on distressed cases and pushing harder for the recovery of debts
- Putting pressure on firms that have in the past relied on extra time to pay HMRC when cash is tight.



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## Changes to bank lending - Halliwells

- Halliwells entered administration - July 2010
- A "chilling effect" on lenders
- Stricter lending criteria in relation to the legal sector



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## Changes to bank lending – Management Information

- **Key to productive lending relationship**
- **Strategic plans**
- **Monthly reports:**
  - P&L
  - Balance Sheet
  - Cash flow forecast
  - Aged debtor summary (by practice area)
  - Trended 'Year on Year' comparisons
- **Written management summary to support the numbers**



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## Changes to bank lending – Current and future issues

- **Significantly increased due diligence by lenders**
  - Firm
    - Business plan
    - Fixed costs
    - Drawings
  - Partners
    - Succession issues
    - Own borrowings
- **More own partner capital**
  - Moving away from 100% bank funding?
- **Retention of profits**
  - Move to limited company structure to retain profits to compete?
- **Appetite of secondary funders**
  - Contraction in market due to losses from recent failures?



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## The economy

Uncertain times...



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**SOME FIRMS RAN OUT OF TIME...**



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## 2. The role of the SRA as regulator



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### The role of the SRA

**To serve the public interest and protect consumers of legal services**

- Draft the rules of professional conduct, particularly to make sure they **protect the interests of clients**.
- Monitor solicitors and their firms to make sure they are complying with the rules.
- Investigate concerns about solicitors' standards of practice and compliance with the rules, where necessary taking regulatory action such as reprimanding the solicitor.
- When necessary, close down solicitors' firms so as to **protect clients** and the wider public, and returning papers and monies to their owners.
- We refer solicitors to the independent Solicitors Disciplinary Tribunal and deal with the prosecutions.



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### 3. Financial stability – Regulatory requirements



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#### Regulatory requirements – Principle 8

##### SRA Code of Conduct, Principle 8

- **Solicitors must run their business:**

“...**effectively** and in accordance with proper governance and **sound financial** and **risk management principles.**”

- **Financial instability is a risk to clients**



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## Regulatory requirements – Outcome 7.4

### SRA Code of Conduct, Mandatory Outcome 7.4

- **Solicitors must maintain:**

“...**systems** and **controls** for monitoring the **financial stability** of [their] firm... and **take steps to address** issues identified.”



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## Regulatory requirements – Indicative Behaviours

**Acting in the following ways may tend to show you are complying with the Principle 8**

- Controlling **budgets, expenditure** and **cash flow** (IB 7.2)
- **Identifying** and **monitoring** financial risks including ...**credit risks** and **exposure** (IB 7.3)



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## Reporting requirements – Outcome 10.3

### SRA Code of Conduct, Mandatory Outcome 10.3

- **Solicitors must:**

“...**notify the SRA promptly** of any material changes to relevant information about [the firm] including **serious financial difficulty**...”



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## Reporting requirements – Indicative Behaviours

**Acting in the following ways may tend to show you are complying with the Principle 8**

- Notifying the SRA **promptly** of **any indicators** of serious financial difficulty, such as
  - inability to pay your professional indemnity insurance premium, or
  - rent, or
  - salaries, or
  - breach of bank covenants

(IB 10.3)



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## Reporting requirements – Indicative Behaviours

Acting in the following ways may tend to show you are complying with the Principle 8

- Notifying the SRA **promptly** when you **become aware** that your business **may not be financially viable** to continue trading as a **going concern**, for example because of
  - difficult trading conditions,
  - poor cash flow,
  - increasing overheads,
  - loss of managers or employees and/or
  - losses of sources of revenue



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(IB 10.4)

## Reporting requirements – Contacting the SRA

But remember the SRA's role...

*"...your first port of call may be your assigned member of our Supervision team. They will talk through your problems from a **regulatory perspective** and consider what can be done. Bear in mind that **the SRA's concern is to protect clients** and the wider public interest and we **cannot provide legal or financial advice**"*

"Financial Stability" note on SRA website

May 2013



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## 4. The SRA's 'Financial Stability Programme'



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### SRA's programme

- **Lack of self reporting**
- **'Financial Stability Programme' reviewing selected firms**
  - Top 600 firms initially reviewed in early 2013 (Impact assessment)
  - Further 1,350 firms of a total of 11,000 (i.e. over 10%) in mid 2013 based on risk factors
- **Selected required firms to upload financial information to SRA website**



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## SRA email to solicitors – July 2013

...we are currently carrying out an exercise to help us understand which firms may be experiencing, or are at risk of experiencing, financial difficulties.

The prevailing economic conditions and government policy changes, such as the ban on referral fees for personal injury work and the proposed changes to legal aid, are creating financial pressures on firms, particularly in certain sectors of the legal services market. However, **where such firms engage early with the SRA there is a much greater chance of improving client protection and significantly reducing the potential for intervention and associated costs.**

The fact that we have made contact with a firm does not signal concern about the firm's particular financial position. Instead, at this point, the focus of this exercise is on those firms reliant on income from PI or legal aid; parts of the legal services sector which are known to be under particular economic pressures; and firms classified by the SRA as having a potentially high impact if they were to fail.

**One of the biggest risks we are encountering is where a firm fails to face up to its financial difficulties. ...**

We will be contacting around **1,350 firms at the end of July** by email with a request for this information, which will then be used to assess whether or not we need to increase our understanding of a firm's financial position and determine the level of future engagement with the firm.



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SRA Financial Information Request				Solicitors Regulation Authority	
<p>These pieces of data will be used to verify that the information submitted within this form has been submitted by the right person(s). They will be cross-checked with our systems. Discrepancies in this checking process that suggest a false or incorrect entry will be followed up.</p>		<p>Head Office Firm SRA ID: <input type="text" value="12345"/></p> <p>Firm Name: <input type="text" value="EXAMPLE &amp; CO"/></p> <p>COF's SRA ID: <input type="text" value="23456"/></p> <p>COF's Full Name: <input type="text" value="BRUCE SMITH"/></p> <p>COF's SRA ID: <input type="text" value="34567"/></p> <p>COF's Full Name: <input type="text" value="CLARE KENT"/></p>	<p>COMPLETE</p> <p>COMPLETE</p> <p>COMPLETE</p> <p>COMPLETE</p> <p>COMPLETE</p>		
<p>If you do not yet have a full set of accounts, please proceed to Question 7.</p>	<p>Q1. Do you have a full set of accounts?</p>	<input type="text" value=""/>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
<p>We would like you to supply the start date and end date of your last full accounting period, as well as the net profit or loss that is recorded within this accounting period.</p>	<p>Q2. Last full accounting period</p>	<input type="text" value=""/> to <input type="text" value=""/>	<input type="text" value=""/>	<p>INCOMPLETE</p>	<p>Note that accounting periods of over 700 days will flag up as nil. Please ignore this warning if you are confident the accounting period you have supplied is correct.</p>
	<p>Q3. Net Profit/Loss</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	<p>If you are a sole practitioner, partnership or limited liability partnership, please go to question 5.</p>
<p>We would like you to supply the total value of either total drawings or director's remuneration plus dividends paid to directors from your last full set of accounts.</p>	<p>Q4. Total Drawings</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	<p>Please go to question 7</p>
	<p>Q5. Director's remunerations</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
	<p>Q6. Dividends paid to directors</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	<p>Please go to question 7</p>
<p>We would like you to supply total borrowings and a yes/no response to whether you are a time-to-pay agreement or have agreed a deferral of liabilities as of today</p>	<p>Q7. Total Borrowings</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
	<p>Q8. Time-to-pay / Deferral of liabilities</p>	<input type="text" value=""/>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
<p>We would like you to supply confirmation of an overdraft facility being formally agreed with your main bank/building society and the approved limit of this facility.</p>	<p>Q9. Do you have an agreed overdraft facility with your bank/building society?</p>	<input type="text" value=""/>	<p>If you do not have an agreed overdraft facility, please go to question 11</p>	<p>INCOMPLETE</p>	
	<p>Q10. Approved overdraft limit</p>	<p>£ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
<p>We would like you to supply minimum and maximum office account balances for the following periods: 1. between today's date and 30 days previous, 2. between 31 days previous and 60 days, 3. between 61 days previous and 90 days.</p>	<p>Q11. Minimum office account balance</p>	<p>0-30 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
	<p>31-60 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>		
	<p>61-90 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>		
	<p>Q12. Maximum office account balance</p>	<p>0-30 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>	
	<p>31-60 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>		
	<p>61-90 days: £ <input type="text" value=""/> million, <input type="text" value=""/> thousand, <input type="text" value=""/> hundred, less &amp; pence</p>	<input type="text" value=""/>	<p>INCOMPLETE</p>		
<p>Please double check to ensure you have filled in your information correctly. An INCOMPLETE message to the right of a question signals that you have not provided all of the information required. A WARNING message suggests the information provided may not be correct.</p>					
<p>I am the <input type="text" value="CLARE KENT"/> (have filled in the information that has been requested within this spreadsheet).</p> <p>MANAGING DIRECTOR / COFA for <input type="text" value="EXAMPLE &amp; CO"/></p>					
<p>DISCLAIMER: <input type="text" value=""/> certify that the information provided in this information request is true to the best of my knowledge. Date: <input type="text" value="15/06/2013"/></p>					

## **SRA concerns**

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- **Potentially significant problem**
- **According to SRA in June 2013**
  - 20% of the 160 firms in “intensive engagement” talks with the SRA are among the top 200 (i.e. 30 firms)
  - 8 of the 160 at in immediate risk of collapse
- **700 firms being “actively supervised” prior to review of 1,350 contacted**
- **500 of those contacted moved to “active supervision”?**
- **What about the 300 who did not respond?!**



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## **5. Intervention – what happens**



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## Intervention - Grounds

- **SRA may intervene where grounds set out in Sch 1, Part II Solicitors Act 1974 apply.**
- **These include:**
  - Dishonesty in connection with a practice
  - Bankruptcy/IVA of a solicitor
  - Prison sentence for a solicitor
  - Where **necessary to protect the interests of clients or former / potential clients**



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## Intervention - Powers

- **Powers of SRA on intervention are set out in Sch 1, Part II Solicitors Act 1974:**
  - Practice monies vest in the SRA
  - The SRA takes possession of the practice's documents, including client papers.
  - The solicitor's practising certificate or registration may be suspended.
- **Intervention effectively brings an end to the practice**
- **Partners in firm are personally responsible for the costs of intervention which are recoverable as a debt**
- **Intervention usually dealt with via 'intervention agent' (i.e. another solicitors firm from SRA panel)**



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## Intervention – Agent’s role

- **Intervention agent will attend at practice on day of intervention**
- **Agent will not take over practice or client matters**
- **Agent will identify:**
  - urgent client matters requiring immediate attention
  - the accounts system used
  - practice monies
  - client papers
  - deeds, wills and archived files
- **Agent will remove papers, schedule them and distribute them in accordance with client instructions**



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## Intervention - Costs

- **Intervention agent will invoice the SRA for intervention costs**
- **SRA will then re-invoice the partners**
- **Client moneys distributed by agent to client according to entitlement**
- **Any shortfall of client funds may be claimed against the SRA’s Compensation Fund**



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## 6. SRA's message to firms in financial difficulty



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### SRA's message

- **This is a new 'outcome focused' regulatory regime:**
  - Constructive engagement with firms to tackle risks
  - Proactive rather than reactive
- **Historic perception regarding the use of intervention (from the days of previous regulations and when the Law Society was regulator) does not apply**

*"Intervention may be the only way to secure the protection of the public, but it's a last resort"*

Charles Plant, SRA Board Chairman  
The Times, 10 October 2013



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## **SRA's message**

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- **Firms should consider taking early professional advice from accountants, turnaround specialists, insolvency practitioners and specialist consultants**
- **Subject to the circumstances, they should be able to do so prior to any notification to the SRA**

*“If a firm is aware of its problems, and taking steps to deal with the situation, we just need to be sighted on what they are doing. We need close and continuous contact with firms in difficulty.*

*The risks of financial difficulty are compounded by a lack of awareness and an unwillingness to engage.”*



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Mike Haley, SRA Director of Supervision

21 October 2013

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## **SRA's message**

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- 1. The need to be open and transparent with the regulator**
  - Avoids trouble, and possible intervention, later
- 2. The need to self-report in a timely manner**
  - Compliance with SRA Code
  - COLP has ultimate personal responsibility
- 3. Prepare for the worst**
  - Early professional advice
  - Contingency plans now for various outcomes



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## **SRA's message – Commercial reality**

- **New 'hands off' approach by SRA**
  - Avoiding intervention wherever possible
  - Provided no dishonesty and no threat to clients
  - Working more closely with IPs
  - Transparency
- **Financial stability problems are a financial problem for SRA**
  - 2013 interventions budget £1.3 million
  - Atteys intervention alone could be £1.6million plus
  - 2013 estimated interventions spend £8- £10 million
  - Shortfall from Compensation Fund for now – but not a long term solution



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## **7. SRA's 'Poor' and 'Good' behaviours**



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## 'Poor' Behaviours

*"We have used our experience with firms that have suffered severe financial difficulties to draw up a list of good behaviours to aim for and poor behaviours to avoid. These lists are not exhaustive."*

"Financial Stability" note on SRA website  
May 2013



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## 'Poor' Behaviours

- Drawings exceeding net profits
- High borrowing to net asset ratios
- Increasing firm indebtedness by maintaining drawing levels
- Firms controlled by an "inner circle" of senior management
- Key financial information not shared with "rank and file" partners
- Payments made to partners irrespective of "cash at the bank"
- All net profits drawn, no "reserve capital pot" retained



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## 'Poor' Behaviours (continued)

- Short-term borrowings to fund partners' tax bills
- VAT receipts used as "cash received" resulting in further borrowings to fund VAT due to HMRC
- Partners out of touch with office account bank balances
- Heavy dependence on high overdraft borrowings

And some recent additions:

- Ill judged diversification
- Borrowing rather than restructuring
- Failure to recognise severity of the financial position



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## 'Good' Behaviours

- All partners regularly receive full financial information – including office account bank balances
- Drawings are linked to cash collection targets – and do not exceed net profits
- Provision is made to fund partners' tax from income received (i.e not borrowing)
- A capital element is retained from profit, and a capital reserve account is built up
- Premises costs are contained
- Profitability levels are tested and unprofitable work is (properly) dropped



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# Questions?

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# The principles of lean management

Viv Williams  
360 Legal Group



# The principles of lean management

- Current Market Conditions
- The New Competition
- Defining Your Strategy



## The principles of lean management

- Comply or Die – Using OFR as a Growth Strategy
- Law Firm Finance – Strategic considerations for growth
- Restructuring the practice



## The principles of lean management

- Pricing
- Growth by merger
- Alternative Business Structures



## The principles of lean management

- Using People Wisely
- Diversification strategy – Keeping your eyes open
- Finding the skills to manage change

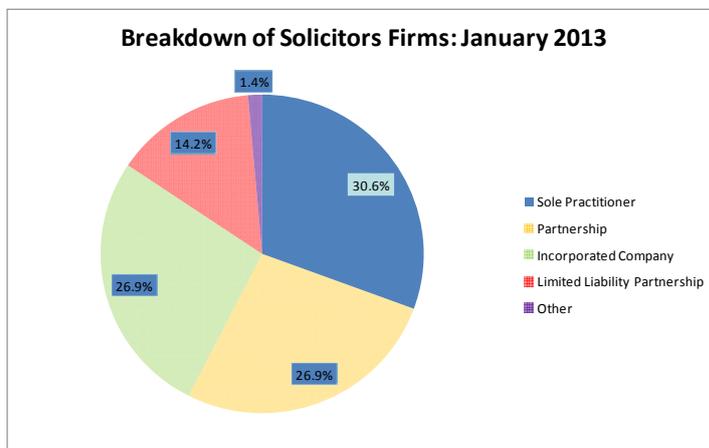


## All change please....

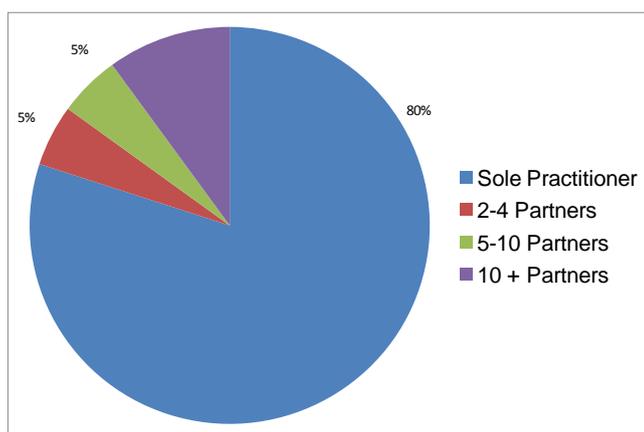
- Legal services act – threat or opportunity?
- LASPO – Legal aid and referral fees
- De-regulation of Legal Service
- Brands, affinity groups, private equity
- Consolidation of existing sector
- What is your Strategy?



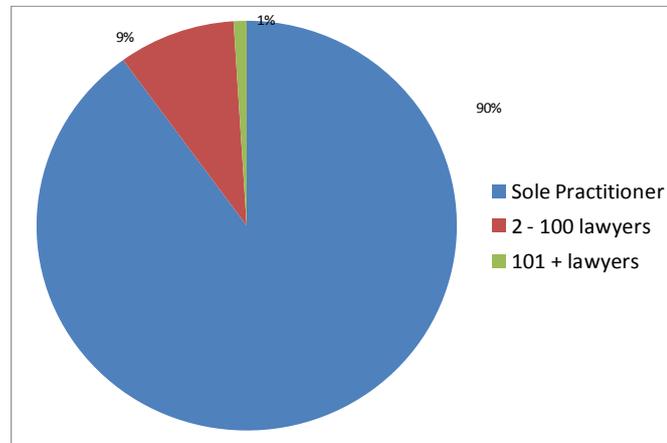
## 29 Billion market



## Solicitors 2018



US solicitors 2012  
460,349 firms and 412,786 Sole Practitioners



## Retaining your independence...

- Plan your future direction NOW
- How many partners/owners – committees don't work?
- Exit and succession planning issues
- Developing services to meet the needs of the market
- Growth of the CEO and Non-Executive Director



## How to compete

- Change your Corporate Governance
- KYC
- Develop services to meet their needs
- Insurance backed services
- Progressive marketing –loyalty cards etc.



## Your Vision for your Business – the model

- Decide the shape of your business
  - Pyramid
  - Hourglass



Professional cost effective help



Viv Williams  
CEO 360 Legal Group



# Key messages

- Times are changing for law firms. Staying still is not an option.
- Law firms are just businesses, only can look different
- Early and realistic strategic planning is crucial – your role as advisor?
- More important to engage early, yet ‘head in sand’ is prevalent
- SRA intervention costs can be huge liability for firms/ partners
- SRA involvement ≠ automatic intervention
- Insolvency and rescue approaches are different
- Client interests always uppermost
- Run-off cover/successor practice rules for insurance
- Sources of finance different/difficult
- Potential risks to livelihood and reputation for practitioners

The way forward, **made brighter**



The way forward, **made brighter**



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