

A dangerous allegiance to the status quo?

Are the imminent changes to the way solicitors are regulated, a risk or an opportunity to the legal profession?

ABSTRACT

The legal industry has undergone profound change in recent years, but the disruption is by no means over.

With changes to the way legal services are regulated potentially just months away, law firms are divided. Some firms are preparing for change, and others appear to be entirely unaware of what is about to happen. With almost two-thirds of law firms believing there are rough times ahead, have they put the necessary measures in place to prepare and protect themselves or to exploit the opportunities change presents? Do they even appreciate that doing nothing is not an option?

Aiming to explore and investigate the current issues facing the legal market, the LexisNexis Bellwether reports undertake ground-breaking market research in order to contribute to the discourse on the future of independent law firms.

The first instalment of this year's

explored how law firms can drive meaningful growth in a client-driven marketplace. What was evident from our research was that the profession was most comfortable adhering to a "business as usual" mindset, even in the face of significant challenges.

It seems this trend also applies to the profession's attitude to the forthcoming SRA regulations changes. Our research teams spoke with over two hundred legal professionals and we hosted a round table event with market commentators and key opinion makers to garner their views. From our research it appears that over half of respondents weren't aware of the regulatory changes being proposed at the time of the research. Even for those firms who were aware and who were making preparations, their knowledge of what they needed to prepare for was far from comprehensive.

But in an environment as tempestuous as that of the current legal market, the question is – how can you weather a storm you don't even see coming?

The legal profession is currently seen by many as over-regulated, but under-represented, with many smaller law firms feeling disenfranchised.

The Solicitors Regulation Authority (SRA), is making significant regulatory changes this year and next year. However, half the respondents are unaware of these changes and those that are, aren't putting measures in place to safeguard their law firm. We also found that many independent law firms felt that the SRA aren't listening to the legal profession and are doing more harm than good. This disenfranchised relationship between the SRA and solicitors could be dangerous, with solicitors potentially putting their firms at risk.

This report explores how the independent legal market is preparing for the forthcoming changes.

Introducing our round-table key speakers:



SOPHIE BARRETT-BROWN
Senior Partner and Head of UK Practice at Laura Devine Solicitors

With over 20 years' experience in UK immigration, nationality and EU free movement law, she has been recognised by legal directories as one of the foremost UK immigration experts globally, described as: 'a brilliant lawyer noted for her pragmatism and technical skills'; 'in a class of her own'.



VIV WILLIAMS
Consulting Director at Symphony Legal Consulting

Viv Williams is a leading consultant to law firms on the topics of strategy, management, merger and acquisition and "lean management" theory helping law firms to evolve. Viv has written two books on law firm management and is regularly interviewed by the Law Society Gazette on a host of topics.



KATHERINE RAYDEN
Senior Partner at Rayden Solicitors

Katherine Rayden set up Rayden Solicitors and built it to become the award-winning firm it is today. Her extensive experience as a family lawyer, business owner and award winning entrepreneur mark her out as a family law expert who provides sensible, commercial advice on a range of family law issues.



TONY ROE
Principal, Solicitor and Family Law Arbitrator at Tony Roe Solicitors

Tony Roe is a solicitor and family arbitrator, the principal and founder of niche practice, Tony Roe Law Solicitors, Berkshire. Tony has written and lectured widely on family law and practice management.



SALLY AZARMI
Director at Azarmi & Company Ltd

Sally Azarmi founded Azarmi & Company Ltd, in the City, in 2012 after 18 years of practising as a solicitor and partner in large law firms. Sally is involved with the Small Firms Division with the Law Society, as she believes strongly in the need for small firms to provide access to justice as well as promoting and supporting small firms.

1. REPRESENTATION VS. REGULATION

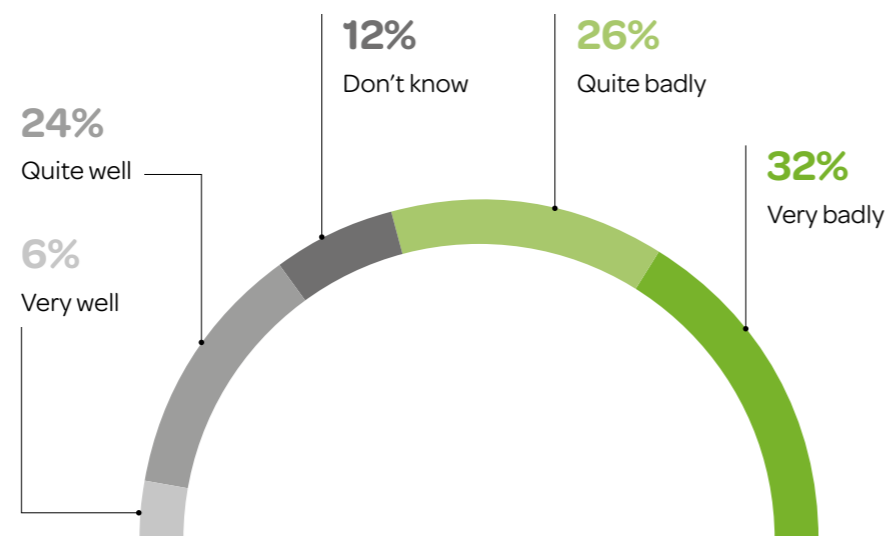
Does the SRA understand Independent Law Firms and the work they do to regulate them?

The overwhelming majority of law firms in the UK are small & independent in size and the work they do forms the backbone of the legal market.

But do the regulators recognise the forces at play in this vital arm of the legal profession and do they consider this sector when constructing regulations about how solicitors work?

According to our research, the answer is a resounding “no” – at least not when it comes to the Solicitors Regulation Authority (“SRA”).

How well do you think the Solicitors Regulation Authority represent the interests of firms like yours?



Whilst all recognise that the SRA is the regulator and its primary role is to support the interests of clients the lack of faith solicitors have in the SRA's ability to represent independent solicitors when formulating policy and regulation is a concern.

When asked about the work of the SRA in regulating the important work carried out by Independent and Small Law firms only 12% of the solicitors we spoke with believe that the SRA represents their interests adequately. Meanwhile, 58% believe that even if the SRA does represent their interests, it does so “badly”. A third of solicitors would go so far as to say that the SRA actually represents its own interests, rather than those of solicitors.

The real impact of the disconnect between Independent Law and the regulator is that many in the profession have simply stopped engaging with the SRA and, as a result, are not keeping up to date with the changes to the way the profession is regulated.

This year, that attitude could be potentially damaging for law firms.

How does your firm view the SRA?

Even though consultations related to the potential changes have been held, many solicitors simply view them as an unconvincing attempt to engage with the profession, one that is both time-consuming and disenfranchising.

“I wouldn't hold my breath to see something fantastic come from the SRA. I don't think they have had a particularly good track record of doing anything particularly good,” says one respondent. *“From experience, I've never had much faith in them.”* But faith and trust aside, not liking the SRA's approach or the regulator's track record doesn't seem reason enough not to educate yourself on the issues.

58%

of solicitors believe the SRA is representing their interests badly.



Only 1 in 10 solicitors think that the SRA represents their interests.



Lawyer

The SRA has got a very important job to do in regulating the profession. Having said that, when I have reported something to the SRA, it hasn't been remotely interested. I have done it a couple of times and it didn't go anywhere – I was appalled.




OPINIONS

DOES THE SRA UNDERSTAND THE WORK THAT INDEPENDENT LAW FIRMS DO WELL ENOUGH TO REGULATE THEM EFFECTIVELY?


SOPHIE BARRETT-BROWN

Senior Partner and Head of UK Practice at Laura Devine Solicitors


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Participating in a consultation is time-consuming and if you feel that your view may be disregarded, whatever it may be, it doesn't incentivise busy lawyers to participate in the process. I think that is one of the greatest dangers: solicitors not wanting to invest time to participate in the consultation process because they feel no one is actually going to listen.



TONY ROE

Principal, Solicitor and Family Law Arbitrator at Tony Roe Solicitors


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There have been various occasions when the SRA appears not to listen to practitioners whatsoever – at least that's how it feels.



KATHERINE RAYDEN

Senior Partner at Rayden Solicitors


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I think it would be nice to have a solicitor in their top-level... We don't even have a lawyer as a Lord Chancellor so I know I sound really naive now but generally the head of the medical association is a doctor at some point; the Bar Council is a practising barrister. And yet our profession is run by people who've never been lawyers at all or solicitors.



KATHERINE RAYDEN

Senior Partner at Rayden Solicitors

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I'm quite surprised by even the question, do lawyers think they're represented by the SRA. I feel that my views are totally worthless on this point because I feel that they consider they know far more than I do about what a solicitor should be - they're not solicitors and they don't respect any of the views of the solicitors on any subject.




VIV WILLAMS

Consulting Director at Symphony Legal Consulting

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The SRA is viewed with fear by small law firms, fear and trepidation.

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The SRA doesn't really do itself any favours. As an example, earlier this year the SRA was asking for some feedback about a particular item and we were given only two weeks to respond. As a small law firm sometimes this just isn't feasible. This just adds to the tension that is continuing to develop, between the SRA and solicitors generally, and there's a risk solicitors will say, look, I'm just not going to do this because frankly it's a waste of time, they never listen to me. The SRA puts us in a very difficult position.



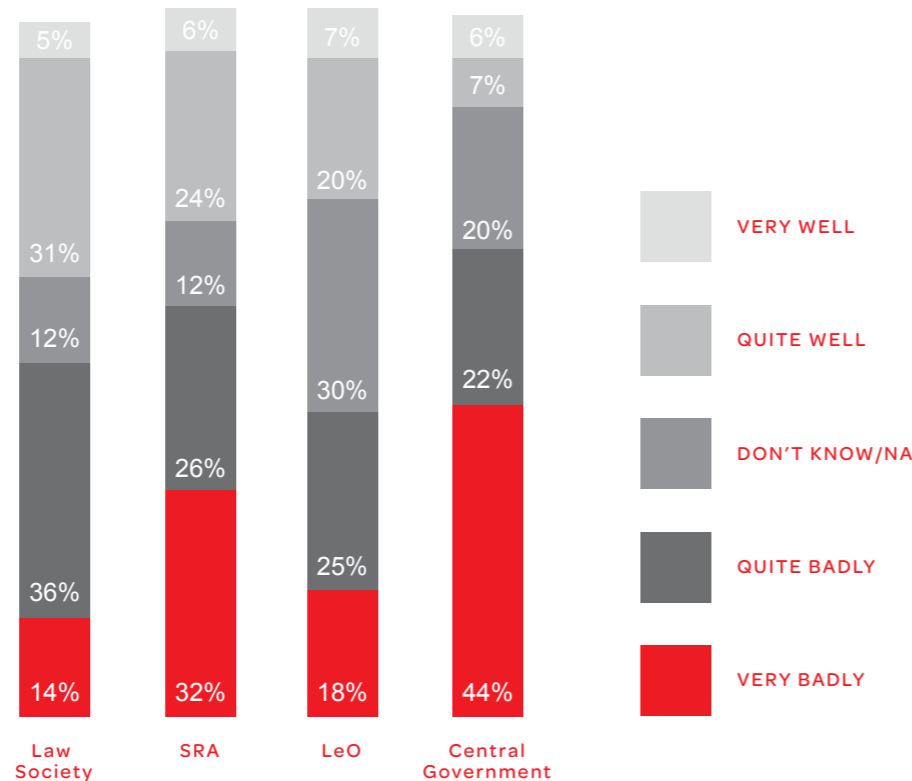

2. THE ISSUE OF SELF-INTEREST

Solicitors are disillusioned with both the Law Society and the SRA, with many believing that these bodies are more concerned with safeguarding their own interests.

But it's not just the SRA. Our research suggests that the relationship between solicitors and the Law Society is also far from rosy in the current climate; 50% of the solicitors surveyed believe that this body represents the interests of solicitors badly.

The greatest criticism, is reserved for Central Government who the clear majority of respondents feel is failing to represent the interests of smaller law firms.

How well do you think that each of the following bodies represent the interests of firms like yours?



BASE 100

For a majority of solicitors – around a third in each case – improvements could certainly be made as they believe that the Law Society and the SRA are only out to safeguard their own interests, rather than understand and represent those of solicitors. If that is indeed the case, then surely it's all the more reason for law firms to step up and take action to protect themselves.

50%
of solicitors believe the Law Society is representing their interests badly



OPINIONS

DO YOU THINK THAT LEGAL BODIES UNDERSTAND AND REPRESENT THE INTERESTS OF INDEPENDENT LAW FIRMS?

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VIV WILLIAMS

*Consulting Director at
Symphony Legal Consulting*

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The SRA feels that it needs to pursue certain things regardless of what the Law Society says because there's something of a struggle for survival between the two. The SRA wants to win hands-down regardless. The Law Society is tackling views that it doesn't agree with but unfortunately the SRA disregards them in so many cases and that's a real problem.

The Law Society's doing some very good work in trying to feedback information and I think the SRA just needs to say, hang on a minute, we do need to be more objective about this and just listen a lot more.

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SALLY AZARMI

Director

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The Law Society itself has woken up to the fact that 86% of the firms in the country are small firms, defined until recently as sole practitioner to four partners. So increasingly they're listening to small firms and providing a better platform for small firms in the Law Society over the last four years.

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SOPHIE BARRETT-BROWN

*Senior Partner and Head of UK
Practice at Laura Devine Solicitors*

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I have the impression there's much more engagement from/with the Law Society. That's one of the reasons why I personally feel as though we've seen an improvement in the last few years, seeing its initiatives coming to fruition.

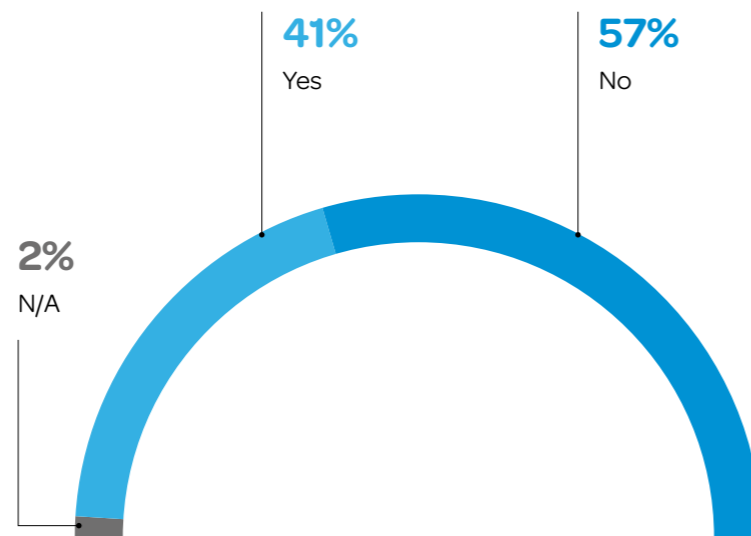
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3. FOREWARNED IS FOREARMED

The majority of firms are unaware of, and therefore unprepared for, the regulatory changes on the horizon.

The strained relationship between the SRA and the independent legal profession is just one corner of a much larger picture. 75% of the solicitors we spoke with stressed that the legal landscape is changing at a faster pace than ever. The resulting cost of compliance – both in terms of time and money – is therefore increasing, leading many to feel like they are almost being set up to fail. Over two-thirds of solicitors currently feel that there are rough times ahead for law firms.

Are you aware SRA are making regulatory changes that could be implemented soon?



This feeling has only been enhanced by the SRA, due to a perceived and troubling lack of clarity and reasoning. *“The general vibe is that a lot of changes are being proposed without a lot of thought,”* says one respondent. *“Until everything is fine-tuned in terms of the detail, law firms don’t know how to respond to it.”*

But in the current climate do law firms have the luxury of waiting to see what happens? The simple answer is no. The regulatory burden on the legal profession is set to increase even if law firms don’t agree with the SRA’s methods. In fact, some measures are already in effect.

Our research revealed that four out of 10 solicitors are aware of forthcoming changes, which is a step in the right direction. Forewarned is, to a degree, forearmed.

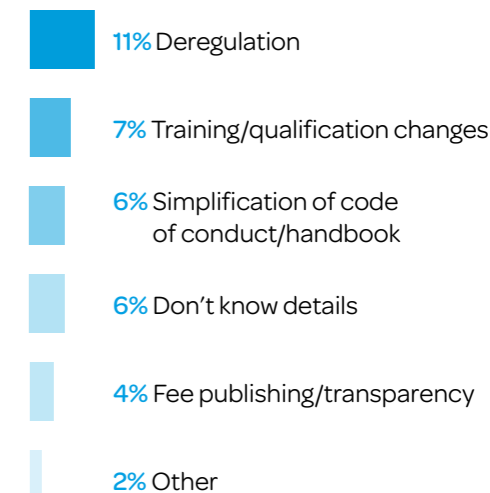
However, when asked about their understanding of what the planned changes actually are and what they will mean for them, over half of the solicitors we spoke are not aware there are regulatory changes ahead. This is surprising, especially for a profession that is supposed to help others stay out of regulators’ crosshairs.

Is this lack of knowledge the fault of solicitors for not keeping up-to-date themselves, or the regulatory body for not communicating effectively with them? It is probably a bit of both, but could the SRA do more to engage with the small, independent law firms?

57%

of solicitors are not aware of the forthcoming regulatory changes

What is your understanding of changes being proposed?



Lawyer

The general vibe is that a lot of changes are being proposed without a lot of thought. Until everything is fine-tuned in terms of the detail, law firms don’t know how to respond to it.



SOPHIE BARRETT-BROWN
Senior Partner and Head of UK Practice at Laura Devine Solicitors

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We're a member of a number of niche networking groups and we are very much seeing that trend of these extraordinary calibre lawyers from the Magic Circle firms who are setting up their own small practices and practising to an extraordinary level, feeling quite liberated by being a small firm rather than part of a big firm; very agile, very technically advanced (ie. in terms of technology, not just technical legal expertise). One has a sense from some of them that they just see it all as being a bit of an irrelevance - they just have the confidence to get on with their own practice and they don't want the distraction of having to engage with the Law Society or the SRA.



TONY ROE
Principal, Solicitor and Family Law Arbitrator at Tony Roe Solicitors

–
There are many examples of firms not wanting to become a successor practice because of latent problems that will come out of the woodwork following any merger or takeover. So we do have a bit of an age issue, I think, in those firms of accepting the changes that are coming.



VIV WILLIAMS
Consulting Director at Symphony Legal Consulting

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I think we can all actually protect ourselves if we can manage expectations better, if we can actually stay true to what our own ethos are and how we were trained and so on. But the problem is that we don't really feel supported by the SRA, which is an organisation which is there, supposed to be regulating us to protect the customers that we call clients, whose interests we have at heart.



OPINIONS

ARE FIRMS AWARE OF AND PREPARED FOR THE SRA CHANGES AHEAD AND WHAT MEASURES SHOULD SOLICITORS BE TAKING?



SOPHIE BARRETT-BROWN
Senior Partner and Head of UK Practice at Laura Devine Solicitors

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I think it's a general problem actually in the modern world; we are assaulted daily by information. The number of emails I get is immense. We are members of all sorts of different organisations (particularly with immigration, which changes all the time, practically every day) - for example we subscribe to LexisPSL, ILPA, Free Movement we have the Law Society - it's hard to keep track with changes in law as well as regulatory changes.



VIV WILLIAMS
Consulting Director at Symphony Legal Consulting

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I'm a busy practitioner, but I think increasingly the atmosphere for all of us is that we have to help and look after ourselves. This means making sure we've got easy access to information to stay up to date, it might be reading the Law Society Gazette, it might be getting a daily update sent to your inbox. We've got to protect ourselves as practitioners.

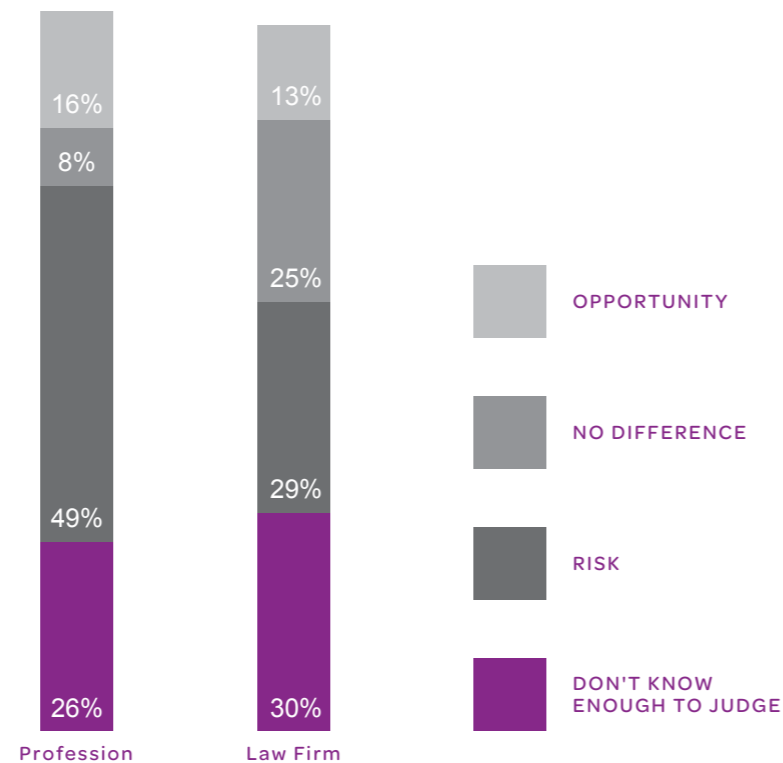


4. THE PERCEIVED IMPACT OF THE SRA CHANGES

Solicitors consider the changes to be a risk and are more likely to impact the profession than their firms.

After being told that one of the planned SRA changes will enable solicitors to provide non-reserved legal services directly to clients outside of the framework of a regulated law firm – over half of the solicitors surveyed believed that it would either make no difference to their firm, or they simply didn't know enough to judge.

How do you see this regulatory change impacting the profession and your firm?



BASE 103

However, around 1 in 10 solicitors view the upcoming regulatory changes as an “opportunity” for firms or the profession at large. One respondent said: “I’ve been thinking about how this would impact me and I quite like the idea. I think the advantage would be that I could take on a role that was a bit more flexible.” 44% of respondents would agree, articulating that it could potentially give lawyers more flexible career choices in the long term.

The majority of the solicitors with whom we spoke simply see the situation as one laden with risk. 70% believe, for example, that the new proposals could compromise the ability of firms to compete effectively with solicitors working outside of regulated law firms. A further 65% believe the proposals will increase competition and 70% said that it will lower standards across the legal market as a whole.

There are worries that the changes will degrade the image of the profession, commoditise the service, and even lower consumer protection.

However, our research has revealed an alarming chasm between expectations of the impact on the profession as a whole and for individual firms. Somehow almost half of the solicitors we spoke with believe that the SRA changes are a risk to the profession, but only 29% believe that it will be a risk to their firms.

55%

of solicitors believe the changes will make no difference to their firm, or they don't know enough to judge.

“

Solicitor

–
I’ve been thinking about how this would impact me and I quite like the idea. I think the advantage would be that I could take on a role that was a bit more flexible.

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Thinking ahead, what long term effects could this regulatory change have on the profession as a whole in your view?



OPINIONS

ARE THESE REGULATORY CHANGES A RISK OR OPPORTUNITY TO THE PROFESSION AND INDEPENDENT LAW FIRMS?



SOPHIE BARRETT-BROWN

Senior Partner and Head of UK Practice at Laura Devine Solicitors

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Some regulatory changes may have an impact on standards. Firms are challenged to do everything faster, cheaper - there are certain ways that you can do that, for example with AI or technology to streamline work - but there's only so much that can achieve and for many types of work a certain amount of time is still needed for good, old-fashioned thinking and doing it properly.



VIV WILLIAMS

Consulting Director at Symphony Legal Consulting

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I think the worst thing you can do as a firm is to ignore this. You've got to understand what is happening and see it as an opportunity. It's then a question of trying to market in a better way, I think, and showing the differentiation between you and that person.

I don't think this will give the SRA the kind of results that it thinks it would like but there may be a handful of individuals working within non-regulated firms who make a success of it, do very well. But we have got to say that we are professionals, we're regulated, insured and we are working within firms where even the office cat has to comply with the handbook.



KATHERINE RAYDEN

Senior Partner at Rayden Solicitors

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As a newish law firm I like to think I'm embracing new ideas but I'm very despondent about the SRA. So if I'm innovative and embracing change on the one hand but find the SRA a negative influence on the other hand, then it might not necessarily be the culture. If the SRA were bringing in opportunities as opposed to risks then it might not be the cultural thing.



TONY ROE

Principal, Solicitor and Family Law Arbitrator at Tony Roe Solicitors

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We've got five floated firms now, I think, four or five, all of whom are generating money from the markets to invest into the way that legal practices work. I know it's different when you're a sole practitioner but that's part of the future, too. Private equity has a big part to play in what's going to happen.

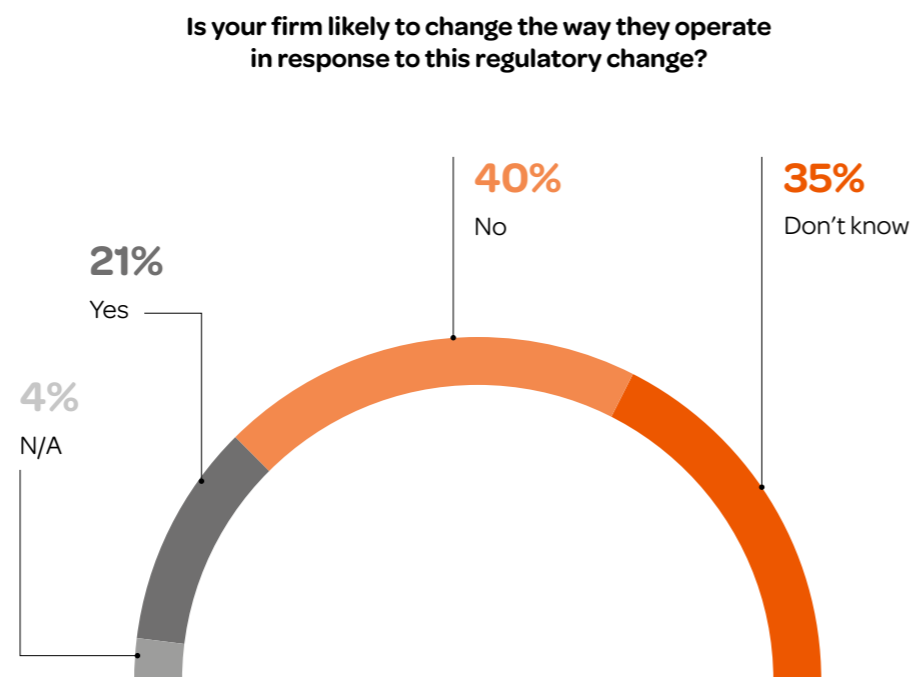


5. ARE FIRMS GOING TO CHANGE?

40% of solicitors see no need to change and for many these moves are unnecessary and unwelcome.

Despite the potential upheaval the changes could bring about for small firms, 40% of solicitors say their firms are not going to change the way they operate.

A further 35% don't know whether their firms will change. This feels like a risky position for solicitors to be taking.



But is their lack of engagement a sign of resignation, simple exhaustion, or just hopeful, wilful ignorance? Many consider these changes to be either unnecessary or, at very least, unlikely to make a difference. The SRA are *“like a dog with a bone”*, says one respondent. Another suggested that the potential changes stemmed from the regulator’s enthusiasm for making change for changes sake, that the SRA is *“just doing these things to kick the hornet’s nest and get a reaction.”*

Although respondents *“don’t have much faith”* in the SRA, the fact remains that there is upheaval ahead. As one respondent said: *“The world is changing, and I don’t know if the SRA’s way is the way of the future.”* But a lack of awareness about the changes ahead isn’t an excuse to be unprepared – it’s a call to educate yourselves, even if the details aren’t *“fine-tuned”* yet, as one solicitor stressed.

After all, if the proposals weren’t going to change things for law firms, why would the SRA be suggesting ones so radical?

Currently, only 21% of solicitors say their firms will change in light of the regulatory upheaval. *“We can’t bury our heads in the sand and say business as usual anymore,”* says one respondent.

Perhaps this is why some independent law firms are dragging their feet, because of a desire to hold onto business as usual?

Many solicitors aren’t *“holding their breath”* to see anything good come of this. *“It’s doomed to failure,”* says one.

But is that a good enough reason to ignore what’s happening? Is that really just a failure of imagination? Can solicitors not envision a world built on different rules? After all, the rules are set to change, whether solicitors believe they will or not.



75% of solicitors don’t know or don’t think that their firms will change in response to the upcoming regulatory changes.

“
Solicitor
–
The SRA is just doing these things to kick the hornet’s nest and get a reaction.
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CONCLUSION

There could be an upside to the upheaval, albeit a small one. 5% of the solicitors we spoke with, for example, articulated that this is a necessary change for the profession, making competition fairer, improving careers, and giving solicitors and clients more options.

As one respondent articulated: “The longer you stay in a law firm the more ingrained traditional practices become. It isn’t until you read about things, like the SRA changes, that you challenge yourself and think about how things could be done differently.”

The profession has changed drastically in recent years, with more upheaval on the horizon. Regulation will play a part, as will technology, new market entrants, and the attitude of lawyers themselves, both at a firm-wide and solicitor-specific level.

So maybe this is a watershed moment for the legal profession.

In the meantime, the combined pressures of change and upheaval are having an impact on job satisfaction. 64% of solicitors we spoke to believe the law is becoming more of a job than a profession, with 46% seeing themselves as businesspeople more than lawyers. 40% even went so far as to say they wouldn’t go into a career in the law if they were starting over. The relationship between the the SRA and the legal profession has probably played a role in this.

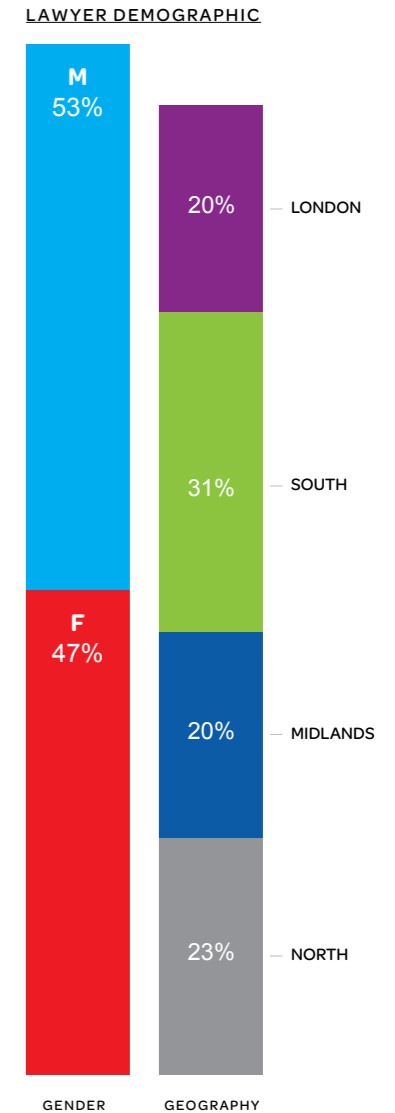
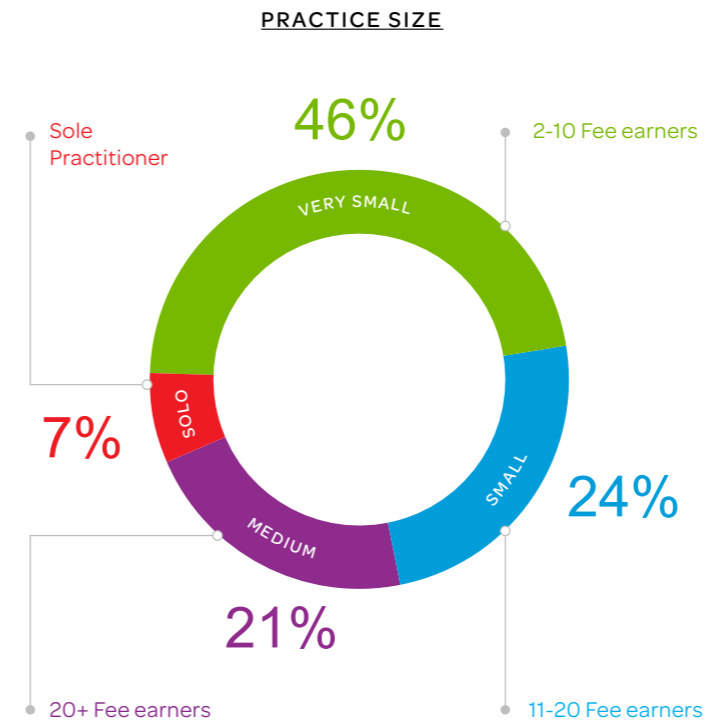
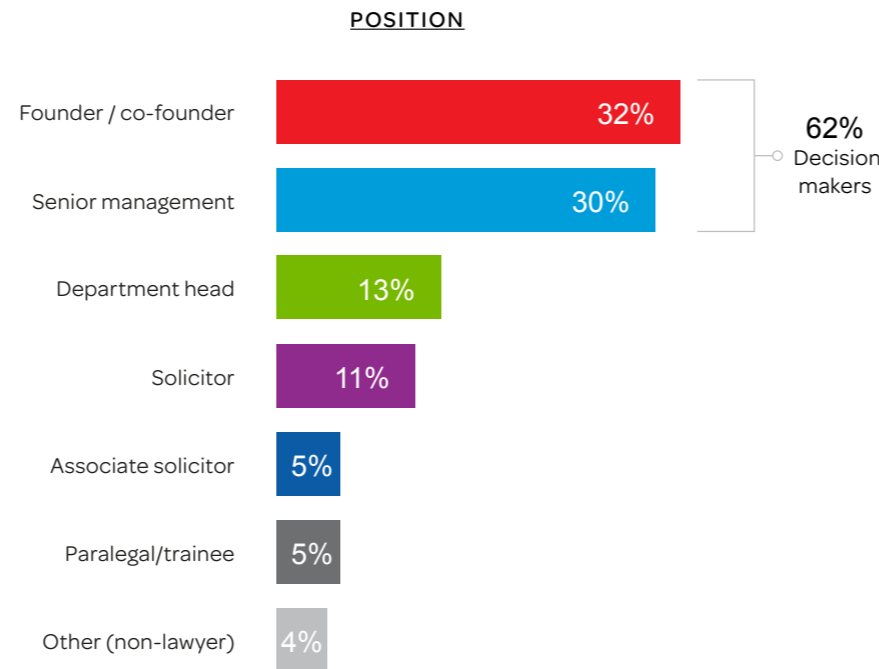
It is alarming that the majority of solicitors are unaware of the changes facing their profession. It is equally alarming that many of those who are aware that change is coming appear not to possess sufficient knowledge to take the necessary steps to prepare themselves or their firms – especially when so many consider these changes to be a fundamental risk to the profession.



Our research sample for this report was compiled using data from two quantitative surveys completed by over 200 solicitors across the country. This work was informed by 12 in-depth interviews with partners and decision makers in small firms and small offices of larger firms.

The quantitative research included the views of respondents from a wide geographical area and represented a broad sample of lawyers in a variety of positions in the firm and areas of expertise. The research fieldwork was conducted by an independent market research agency, Linda Jones & Associates, throughout January 2018.

The round table discussion hosted by LexisNexis, was held on 8th May 2018 and attended by market commentators and key opinion formers.



ABOUT THE AUTHOR



Jon Whittle is Market Development Director at LexisNexis, responsible for the company's offering for the independent legal sector – independent, small law firms and sole practitioners.

With 18 years of experience in research, insight and business strategy, throughout his career Jon's been passionate about understanding and representing the voice of individuals to big businesses.

Jon is currently focused on advocacy and community development for independent legal practitioners. He produces cutting-edge research, such as the industry-leading annual LexisNexis Bellwether report into the changing landscape for independent legal practitioners and supporting the business of law firms.



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Jon Whittle
Market Development Director
LexisNexis

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