

**Solicitors Regulation Authority**

**Consultation Paper 15**

**Information to be sought from firms for regulatory risk-analysis –  
the practical approach for 2009**



**A response by the Association of Personal Injury Lawyers**

**March 2009**

The Association of Personal Injury Lawyers (APIL) is a not-for-profit organisation whose members help injured people to gain the access to justice they deserve. Membership comprises solicitors, barristers, legal executives and academics, who are all committed to serving the needs of people injured through the negligence of others.

The aims of the Association of Personal Injury Lawyers (APIL) are:

- To promote full and just compensation for all types of personal injury;
- To promote and develop expertise in the practice of personal injury law;
- To promote wider redress for personal injury in the legal system;
- To campaign for improvements in personal injury law;
- To promote safety and alert the public to hazards wherever they arise;
- To provide a communication network for members.

APIL's executive committee would like to acknowledge the assistance of the following members in preparing this response:

Stephen Lawson	Secretary	APIL Executive Committee
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## **Executive Summary**

In general terms we recognise that the SRA will have to gather a certain amount of information to be an effective regulator. We believe, though, that the amount of information to be collected by the SRA must be justified in offering the SRA assistance in helping to protect clients and that regulation should not be an excessive burden upon firms.

In relation to the proposed requirements for information about turnover, non-solicitor fee earners and work types, we believe that this information should be readily available to firms and should be capable of being easily provided to the SRA. It is essential, however, that any information collected is relevant, proportionate, useful and actually used and there is a risk of substantial and detailed information being collected that, ultimately, serves no useful purpose.

The proposed request in relation to negligence claims is too vague. There is no definition of what constitutes a 'claim' and no definition of when a claim is 'made'. Reference to only '... one complete accounting period ...' will provide a limited snapshot of claims and does not, necessarily, provide a true picture of a firm's claims record.

We are also concerned that the information being requested about negligence claims is too vague, in particular in respect of the proposal to obtain details of the number of negligence claims. This information in isolation will not provide the SRA with a complete picture about the nature of the claims made unless there is cross-referencing with, for example, the size of the firm, the number of fee earners, the value of the claims and the number of clients the firm has acted for. There is a danger if this question is asked in isolation that the figures could be misinterpreted.

## **Introduction**

APIL welcomes the opportunity to respond to the Solicitors Regulation Authority (SRA) Consultation paper 15 on the information to be sought from firms for regulatory risk-analysis.

In general terms we recognise that the SRA will have to gather a certain amount of information to be an effective regulator. We believe, though, that the amount of information to be collected by the SRA must be justified in offering the SRA assistance in helping to protect clients and that regulation should not be an excessive burden upon firms.

## **Turnover / Non-solicitor fee earners / Work types**

In relation to the proposed requirements for each of these categories of requested information, we believe that this information should be readily available to firms and should be capable of being easily provided to the SRA.

It is essential, however, that any information collected is relevant, proportionate, useful and actually used. This is particularly so where the information may be of a sensitive commercial nature, such as gross fees. Recent events do not inspire confidence about the security of confidential information collected by central agencies.

The consultation paper states that the SRA will only collect information which is needed to help them develop a new fee strategy for 2010 onwards or that is required for the development of risk based regulation.<sup>1</sup> We are concerned, therefore, that the new fee policy has not yet been developed and that the SRA will soon be consulting

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<sup>1</sup> SRA Consultation Paper No 15, page 1, paragraph 4

on this.<sup>1</sup> In our view, this creates a risk of substantial and detailed information being collected that, ultimately, serves no useful purpose. For example:

- Information will be gathered on turnover for branch offices outside England and Wales but the consultation paper indicates that ‘... we will soon be consulting on the new fee policy and will ask for your views on *whether or how* to deal with overseas offices in that paper ...’<sup>2</sup> (our emphasis).
- Information will be gathered on the number of non-solicitor fee earners but the consultation paper indicates that this ‘... *could* be a factor in any firm based fee calculation ...’ (our emphasis) and that ‘... we have no fixed views on this, and will be seeking your views soon ...’.<sup>3</sup>

## **Negligence claims**

We believe that the proposed request in relation to negligence claims is too vague. There is no definition of what constitutes a ‘claim’ and no definition of when a claim is ‘made’.

We are concerned that ‘... one complete accounting period ...’ will only provide limited snapshot details of claims and does not, necessarily, provide a true picture of a firm’s claims record. For example, a firm may have claims arising several years later in respect of one negligent solicitor who has since been sacked.

We are also concerned that the information being requested relates to the number of claims as, again, this does not provide a complete picture unless there is cross-referencing with, for example, the size of the firm, the number of fee earners, the value

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<sup>1</sup> Ibid, pages 2 & 3, paragraph 13

<sup>2</sup> Ibid, page 3, paragraph 13

<sup>3</sup> Ibid, page 3, paragraph 14

of the claims and the number of clients the firm has acted for. There is a danger if this question is asked in isolation that the figures could be misinterpreted.

- Ends -

## **Association of Personal Injury Lawyers**

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