

Freelance Solicitors not subject to Minimum Terms

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14 June 2019

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The SRA's objective is to encourage flexibility and growth in the legal services market. By reducing the regulatory requirements for solicitors who want to practice on a freelance basis the rationale is to increase client access to cheaper legal services. The SRA has acknowledged that other professionals practising legal services, such as employment consultants and will writers are unregulated and not subject to the MTCs and accordingly it is comparatively onerous to require self-employed sole practitioners to secure MTC insurance where high premiums often deter new entrants to the market. The opportunity for solicitors to operate alone has been made easier in recent years by technological developments but one of the barriers to entry to date has been excessively high indemnity insurance which, the SRA hopes, its reforms will change.

The Law Society, amongst other stakeholders, has raised considerable concerns about the practical implications of the SRA's reforms; particularly the vague, narrower requirement to hold 'adequate and appropriate' PII which has not been explained or defined. The major concern is that clients will be confused and disadvantaged by narrower insurance cover, the changes will threaten public trust in legal services and clients will be exposed to uninsured losses. There will be no obligation for freelance solicitors to hold run off cover which means clients will have no protection in the event the freelance solicitor closes its practice. There is also a risk freelancers will operate beyond the limits of their insured activities or will not be able to secure appropriate insurance in the hardening market for PII.

On the other hand, the risk of jeopardising public trust has to be balanced against the need to loosen the regulatory framework in an attempt to increase the supply and access to legal services. Following the proposal period the SRA has imposed restrictions on the freelancers with a view to protecting customers. In order to go freelance, you must have a minimum three years' experience and there will be restrictions on holding client money. The SRA expects the client money rules to cause a swing towards the use of third party managed accounts in place of client accounts (similar to that used by barristers) which it favours for all solicitors.

For insurers the reforms present an opportunity for more creative insurance solutions, although a freelance practice will be a new and untested risk. We also anticipate a more detailed coverage assessment in the event a claim against a freelancer is made.

For further information on the introduction of freelance solicitors and its implications for insurers, brokers and policyholders please do get in touch.

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