



Centre for
**Strategy & Evaluation
Services**

Impact Evaluation of SRA's Regulatory Reform Programme

A Final Report for the Solicitors Regulation Authority

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1. Introduction

1.1 Purpose of the study

In October 2016, the Solicitors Regulation Authority (SRA) commissioned the Centre for Strategy and Evaluation Services (CSES) to undertake an early stage impact evaluation of their Regulatory Reform Programme.

The research aims were to:

- assess the early impact of recently implemented regulatory reforms on regulated providers, consumers and the wider legal services market including the impact on equality, diversity and inclusion (see Sections 3 to 6); and
- develop an evaluation framework to assess the impact of future regulatory reforms (see Part II).

As far as possible, the study has followed the approach to evaluation set out in the Treasury's "Green Book".¹ It examines the impact of the reforms against what was expected and is designed to ensure that lessons learned are fed back into the decision-making process. It is too early to identify the full impacts of the reforms, not least since the impact will be influenced by other reforms proposed by the SRA, i.e. the Looking to the Future programme. The study has therefore identified the likely trends and 'direction of travel' resulting from the reforms using qualitative, rather than quantitative and financial indicators of impact.

1.2 Focus of the study

In November 2015, the SRA published a Policy Statement about its approach to regulation and its reform. This statement provided clarity about their regulatory purpose and the regulatory requirements and reform programme required to deliver that purpose. The infrastructure and operation of the legal services market is changing rapidly, with consumers demanding increased access to services, through more responsive delivery mechanisms and at an affordable cost.

The 'Looking to the Future' programme, which outlines a phased review of the regulatory approach, details how the SRA believes it can help solicitors meet this consumer demand through providing greater flexibility and freedom for firms to innovate, compete and grow. The removal of unnecessary regulation is intended to maintain an appropriate level of protection for consumers, whilst making sure that consumers have continued access to high quality legal services at affordable prices.

The SRA's proposed changes to its handbook and practice framework rules will make it much easier for entities such as banks, insurers, and retail companies to offer legal services. The SRA considers that its reforms will unlock untapped potential in the legal market over next five to ten years. This will be achieved by reducing barriers to entry and ownership increasing competition and helping to lower prices and widen access, whilst maintaining consumer protections. The proposed reforms build on the changes introduced so far and have formed the focus of this study.

¹ HM Treasury (2016), The Green Book: Appraisal and Evaluation in Central Government

Part I of the study has mostly focussed on evaluating the impact of the following recent regulatory reforms:

- Licensing of Alternative Business Structures (ABS), which allow non-lawyer ownership and management of businesses delivering regulated legal services;
- Licensing of multi-disciplinary practices (MDPs), which enable other professionals to offer services such as accountancy alongside regulated legal services; and
- Separate Business Rule (SBR): removing a prohibition on solicitors owning non-regulated legal businesses.

It has also focussed on a number of administrative changes intended to reduce unnecessary burdens and further the principles of better regulation and best regulatory practice, namely:

- Removing over 200 pages of rules from the SRA Handbook;
- Simplifying and speeding up the authorisation processes;
- Providing dedicated support for small firms and firms looking to innovate; and
- Changes to SRA accounts rules and the requirement to obtain an accountant's report.

Part II of the study (not covered in this document) provides an evaluation framework for assessing the impact of future regulatory reforms.

1.3 Methodology

The following research tasks have been undertaken:

- Desk-based review of data and literature from the SRA and other stakeholders;
- Interviews of stakeholders (listed in Annex One);
- Informal interviews with COLPs/COFAs at the SRA conference (October 2016);
- Interviews with providers (listed in Annex One); and
- Focus groups with individual consumers, small firm consumers and small law firms.

The intention of the study has been to provide a broad indication of effects to date, rather than a comprehensive and empirical assessment of impacts. A (non-representative) sample of firms have been consulted that have converted to ABS or MDPs or benefitted from the revision of the Separate Business Rule.² The stakeholders and firms interviewed have also offered their views on the effects of the administrative reforms and the likely effects of the 'Looking to the Future' reforms. The consumers consulted provided insights on the current state of the legal services market, particularly issues of access, quality, cost, conflicts of interest and the trade-offs between protections and price/accessibility. Their views are broadly illustrative of the views of consumers, rather than serving as detailed evidence of the impact of reforms. Overall, the results of the study will inform the implementation and assessment of subsequent reforms. The framework proposed in Part II will be used to assess the effectiveness of current reforms after enough time has passed for the full impacts to be measured.

² A representative sample was contacted but some firms declined the invitation to participate.

1.4 Terminology

The report uses the following terminology to describe the providers of legal services:

- “Regulated providers”: these are solicitors’ firms regulated by the SRA and authorised under the Legal Services Act 2007 (LSA) to provide legal activities.
- “Providers of other legal activities”: these conduct specific legal activities that attract other forms of legal regulation outside of the provisions of the LSA, such as immigration, insolvency and claims management; and
- “Non-LSA authorised providers”: these provide legal activities outside of any form of legal services regulation but are subject to the same regulation as any business, including consumer protection, data protection and anti-money laundering. At present, these organisations cannot employ practising solicitors to provide legal services to the public.

The following terminology is used to describe legal services:

- “Reserved legal activities” that can only be carried out by a provider authorised and subject to a regulator approved by the LSA. These are exercising rights of audience, conducting litigation, preparing certain documents relating to probate and conveyancing, acting as a notary, and administering oaths;
- “Other legal activities” that are subject to other forms of statutory legal regulation, outside of the provisions of the LSA, for example, immigration advice, which is regulated by the Office of the Immigration Services Commissioner (OISC) under the provisions of the Nationality, Immigration and Asylum Act 2002; and
- “Non-reserved legal activities” that can be carried out by providers authorised by an approved regulator or by alternative providers not subject to any form of legal regulation, such as will-writing, some aspects of employment law and provision of legal advice.³

The following abbreviations are used in the report:

Organisations

- ACCA: Association of Chartered Certified Accountants
- ATT: Association of Taxation Technicians
- CIOT: Chartered Institute of Taxation
- CLC: Council for Licensed Conveyancers
- CMA: Competition and Markets Authority
- FCA: Financial Conduct Authority
- ICAEW: Institute of Chartered Accountants in England and Wales
- IPA: Insolvency Practitioners Association
- LSB: Legal Services Board
- LSCP: Legal Services Consumer Panel
- OISC: Office of the Immigration Services Commissioner
- RICS: Royal Institution of Chartered Surveyors
- SRA: Solicitors Regulation Authority

³ This terminology is based on the SRA report on “The changing legal services market”.

Legislation

- LASPO: Legal Aid, Sentencing and Punishment of Offenders Act 2012
- LSA: Legal Services Act 2007

Types of firm

- ABS: Alternative Business Structures
- LDP: Legal Disciplinary Practice
- LLP: Limited Liability Partnership
- MDP: Multi-Disciplinary Practice
- plc: Public Limited Company
- SB firm: firm with a separate business

Roles

- COFA: Compliance Officer for Finance and Administration
- COLP: Compliance Officer for Legal Practice

Other abbreviations

- BAME: Black, Asian and minority ethnic
- EDI: Equality, Diversity and Inclusion
- SBR: Separate Business Rule

2. Background to the study

2.1 The legal services market

In setting the context for this study, it is worth highlighting some characteristics of the UK's legal services market. These characteristics have contributed to the drive to reform legal services in recent years. This section draws on previous research published by the SRA and other stakeholders, most notably a recent report by the Competition and Markets Authority (CMA).⁴ As shown below, some of the CMA's findings reflect concerns already expressed by the SRA and support the rationale for recent reforms.

The legal services market is large and growing. In 2015, the total turnover of solicitors, barristers and patent and copyright agents in the UK was £32.2bn, which was an increase of more than 7% compared with the previous year.⁵ The SRA estimates that the total market could be around £40bn, once the turnover of alternative providers is taken into account. This means that the UK is Europe's largest market for legal services and accounts for 7% of the global market for legal services.⁶

There is considerable growth in provision by alternative providers of legal services. Since these providers represent a diversity of organisations, data is not readily available. However, the SRA estimates that the annual turnover of these providers could be as much as £10bn.⁷ Examples of these providers include charities, local authorities, trade unions, insurance companies, estate agents, funeral planners, commercial and corporate professional advisors, architects, surveyors and debt managers and bailiffs. In many cases, alternative providers offer non-regulated services at lower cost to the public than regulated providers because they are not subject to the same administrative burden associated with legal services regulation. However, they typically offer fewer protections to consumers compared to regulated providers. The CMA reports that consumers are unaware of the regulatory status of their legal services provider and the implications of that status for consumer protection. However, the CMA did not find evidence that consumers' lack of awareness was causing them significant harm in practice.⁸

The current regulatory framework is not a major barrier to competition but results in unnecessarily high costs for consumers. According to the CMA, focussing regulation on the professional title of the provider ("solicitor", "barrister", etc.) results in the costs of any excessive regulation being spread across all activities undertaken by the authorised provider, including lower risk, non-reserved legal activities. Furthermore, consumers' lack of appreciation of the rationale behind regulatory protection for certain activities can discourage the choice of an unauthorised, but perfectly suitable, provider to carry out certain services. Ultimately, this makes the costs of non-reserved legal activities unnecessarily high for consumers.⁹

The legal services market is not working well for many individual consumers and small business consumers. These consumers suffer as a result of a lack of transparency and struggle to compare providers, which allows some providers to discriminate on price. For example, the CMA points to previous research showing that only 17% of firms providing legal services displayed their prices online.¹⁰ Moreover, consumers lack the experience and information needed to navigate the legal

⁴ Competition and Markets Authority (2016), Legal Services Market Study.

⁵ Office for National Statistics (2015), TOPSI: Turnover of Legal Activities.

⁶ SRA, The changing legal services market.

⁷ SRA, The changing legal services market.

⁸ Competition and Markets Authority (2016), Legal Services Market Study.

⁹ Competition and Markets Authority (2016), Legal Services Market Study.

¹⁰ OMB Research (2016), Prices of Individual Consumer Legal Services Research Report (prepared for the LSB).

services market and engage confidently with providers.¹¹ Reflecting this, the Legal Services Consumer Panel (LSCP) has found that consumers of legal services are much less likely to complain if they are unhappy, compared to consumers of services in general.¹²

There is evidence of high levels of unmet need amongst certain sections of the population, although determining the precise level of need is difficult as definitions of legal need vary. Some of the issues are as follows.

- The SRA reports that only a third of people with a legal problem seek advice, with only around one in ten seeking advice from a solicitor.¹³ However, a survey by the Legal Services Board (LSB) found that 42% of respondents with a legal problem had taken some form of advice from a solicitor.¹⁴ Similarly, a survey by the LSCP estimated that 34% of the public had used a legal service in the previous two years, of which 62% had used a solicitor.¹⁵
- Other research has found that 63% of people believe that professional legal advice is not affordable for all and that 67% of people feel that wealth is now a more important factor in accessing justice than it has previously been. The same research found that 87% of legal professionals and 81% of the general public regard the justice system to be intimidating to people.¹⁶
- The Law Society reports that there are unmet legal needs in certain sections of the population but the most significant unmet legal need relates to the reduction of legal aid provision resulting from the LASPO.¹⁷ The effect of the LASPO has been to remove financial support for many cases relating to housing, welfare, medical negligence, employment, debt and immigration. As a result, the Law Society highlights that “legal aid advice for housing is disappearing in large areas of England and Wales, creating legal aid deserts”.¹⁸
- The Law Society also notes that not all problems which could be classed as ‘legal’ in nature require specialist advice. Where advice is sought, it is inappropriate to define consumers who have consciously chosen a non-regulated provider of unreserved services as having ‘unmet legal need’.¹⁹

Consumers are changing their purchasing behaviour in part due to the dissatisfaction just described, but also for reasons of cost and because of new opportunities offered by technology and innovation. The LSCP has found that there has been an increase in the percentage of consumers shopping around (from 20% in 2011 to 25% in 2015). Consumers that shop around feel that they have more choice than in previous years (86%) compared to those that do not (67%).²⁰ The increase in shopping around may have been helped by the launch of price comparison websites, such as the Law Superstore.²¹ However, the CMA reports that regulators could help stimulate the growth of

¹¹ Competition and Markets Authority (2016), Legal Services Market Study.

¹² Legal Services Consumer Panel (2014), Consumer Impact Report

¹³ SRA (2106), The changing legal services market.

¹⁴ Legal Services Board (2012), Legal Services Benchmarking Survey

¹⁵ Legal Services Consumer Panel (2015) Tracker Survey

¹⁶ Hodge, Jones and Allen (2015), UK Perceptions of the Legal and Justice System, Innovation in Law Report 2015

¹⁷ Law Society (2016), Response to SRA Consultation: Looking to the future - flexibility and public protection, p.6

¹⁸ Law Society (2016), Response to SRA Consultation: Looking to the future - flexibility and public protection, p.6

¹⁹ Law Society (2016), Economic response to the SRA Handbook review, p.2

²⁰ Legal Services Consumer Panel (2015), Tracker Survey 2015

²¹ <https://www.thelawsuperstore.co.uk/>

digital comparison tools and other third-party intermediaries for legal services by aggregating and making available quality information such as complaints data.²²

Regulatory and legislative changes can be barriers to, but also drivers of, innovation. Legislation and regulation was the most commonly cited constraint on innovation by respondents to a previous survey (cited by between one fifth and one quarter of respondents). However, more providers see changes in legislation as having a positive rather than a negative effect on innovation, although the majority consider the effect to be neutral.²³ Other drivers are perhaps more important and include the increased use of IT at various stages of the value chain.²⁴

Providers are introducing new structures and delivery models and are making use of the opportunities offered by regulatory and legislative changes and by developments in technology to reduce the cost to consumers. These include “unbundling”, whereby the solicitor provides discrete acts of legal assistance under a limited retainer, whilst the case remains client-led. It can include provision of self-help packs, discrete advice about specific steps and checking or drafting documents.²⁵ Unbundling is estimated to account for almost one in five transactions.²⁶ They also include “McKenzie friends” who assist a litigant in person in a court of law, without needing to be legally-qualified and without needing to provide professional indemnity insurance. The SRA also highlights the increase in new ways of providing services, including the use of fixed fees, legal process outsourcing, contract lawyering and subscription services.²⁷ There has also been a growth in the online provision of services for consumers (such as Rocket Lawyer²⁸) and for providers (such as Lawyer Checker²⁹).

2.2 The SRA’s reform agenda

The reforms introduced by the SRA need to be seen in the context of the overall objectives of regulation set out in the LSA, namely:

- a) Protecting and promoting the public interest;
- b) Supporting the constitutional principle of the rule of law;
- c) Improving access to justice;
- d) Protecting and promoting the interests of consumers;
- e) Promoting competition in the provision of services;
- f) Encouraging an independent, strong, diverse and effective legal profession;
- g) Increasing public understanding of the citizen's legal rights and duties; and
- h) Promoting and maintaining adherence to the professional principles.

Since the LSA, the SRA has introduced regulatory reforms to allow solicitors to work within a wide range of businesses and to allow SRA-regulated entities greater freedom to structure themselves in ways that make sense for their businesses and their clients.

²² Competition and Markets Authority (2016), Legal Services Market Study.

²³ Enterprise Research Centre (2015), Innovation in Legal Services

²⁴ Legal Services Board (2011), Regulatory Information Review: Map of the Legal Services Market

²⁵ <http://www.lawsociety.org.uk/support-services/advice/practice-notes/unbundling-civil-legal-services/>

²⁶ SRA (2016), The changing legal services market.

²⁷ SRA (2016), The changing legal services market.

²⁸ <https://www.rocketlawyer.co.uk/>

²⁹ <https://www.lawyerchecker.co.uk/>

The SRA introduced the licensing of Legal Disciplinary Practices, so that firms could include non-lawyer managers. This was followed by the licensing of **Alternative Business Structures (ABS)**, which allows non-lawyers to invest and have management roles within law firms. The SRA started accepting applications from prospective ABS firms in January 2012. The reform of allowing ABSs and the effects of this reform are described in Section 3.

Building on this, the SRA licensed **Multi-Disciplinary Practices (MDPs)** in 2014, which enable other professionals to offer services, such as accountancy, alongside regulated legal services. The licensing of MDPs and the effects of this reform are described in Section 4.

As of 2015, the **Separate Business Rule (SBR)** has been revised. Solicitors can now own and manage non-regulated legal businesses. The reform of the SBR and the effects of this reform are described in Section 5.

Other recent initiatives are described in Section 6. They include:

- **Simplified Authorisation process:** Sole practitioners and lawyer managers at firms with a turnover of less than £600,000 are now automatically deemed suitable for appointment to COLP and COFA roles. The SRA has also introduced other changes, such as streamlined application forms if firms want to change their legal structure – from a sole practice to a limited company, for example.
- **Accounting report requirements:** The SRA has removed the requirement for firms who hold client money to submit an accountant's report, unless the report is qualified. If the only client money firms hold is from the Legal Aid Agency, or their average client balance is under £10,000 and the maximum is below £250,000, they no longer need to obtain an accountant's report.
- **Tailored support for small firms.** The SRA offers the following suite of services tailored to the needs of small firms: a dedicated small firms section on the SRA's website which brings together relevant information and resources; a team of regulatory supervisors focused on helping small firms with regulatory issues and compliance; a small firms email alert, which informs small firms of developments relevant to them; and a small firms virtual reference group that helps them to consider what matters to small firms and to put in place new initiatives and reforms.
- **SRA Innovate:** The SRA is committed to helping current providers of legal services develop their businesses in new ways and to supporting new types of organisations who are thinking of delivering legal services for the first time. To help this, the SRA launched SRA Innovate, which includes online materials with dedicated support for firms with an interest in new ideas and ways of working. In addition, as a pilot initiative, a small number of firms have received waivers for certain regulatory requirements combined with greater supervision from the SRA.

The **Looking to the Future** programme will build on these proposals through introducing:

- Revised principles and separate Codes of Conduct for solicitors and firms;
- Freeing up solicitors to provide non-reserved legal services outside of regulated firms. This change is designed to benefit the public by allowing solicitors to work in the emerging 'alternative' legal market; and
- A short, sharp and focussed Handbook for solicitors, based on the high professional standards set by the SRA, without lengthy and prescriptive rules.

2.3 Objectives of regulatory reform and other initiatives

Fundamental to any evaluation framework is the articulation of objectives for the subject of the evaluation. According to the Green Book, these should be consistent with statements of government

policy and departmental or agency objectives. This study has applied a research framework based on the specification of objectives for the SRA's regulatory reforms.

Building on the objectives set out in the LSA, the recent reforms and other initiatives aim to address the following objectives.

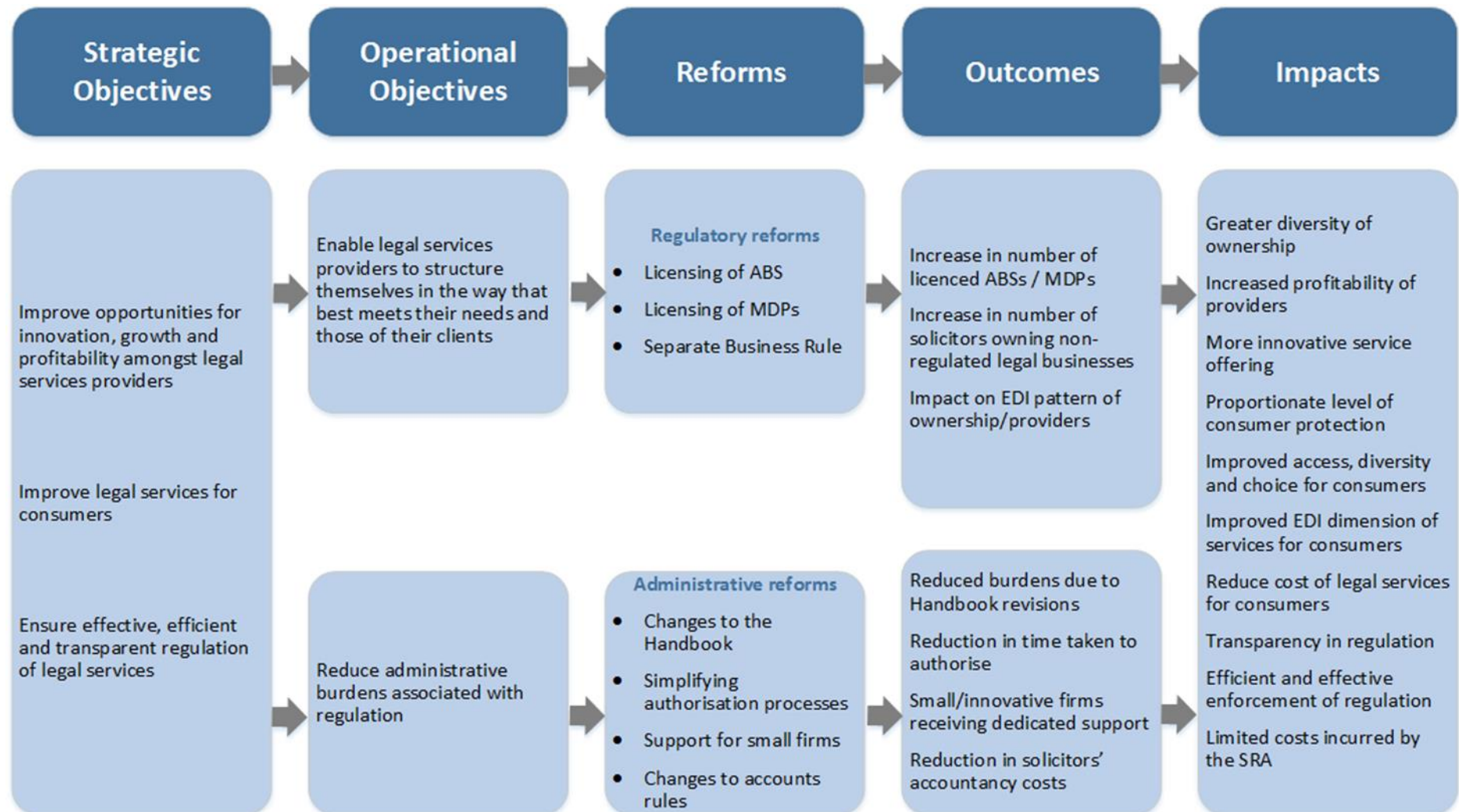
- **Overall aim:** this summarises what the reforms are intended to achieve, in a way that is consistent with the longer list of regulatory objectives in the LSA and with the overall purpose of the SRA;
- **Strategic objectives:** For the overall aim to be achieved, it will be necessary for the reforms to have a positive impact on three distinct groups: providers of legal services, consumers of legal services and the SRA itself. For example, the reforms could not be considered successful if they improve the profitability of providers whilst worsening the quality of service(s) offered to consumers. Equally, reforms are unlikely to deliver the intended long-term impacts if they prove “unmanageable” for the SRA. By articulating strategic objectives that relate to these three “target groups”, it has been possible to specify intended effects for each, against which evidence has been gathered and analysed; and
- **Operational objectives:** The reforms will need to have a demonstrable impact against a set of operational objectives if they are to contribute to the achievement of the strategic objectives.

The objectives are presented in Table 1 below. The figure that follows shows how the reforms and their expected effects relate to the objectives.

Table 1: Objectives of regulatory reform and other initiatives

Hierarchy of objectives for recent reforms and initiatives	
Overall aim	
Ensure a well-functioning legal services market, which supports the rule of law and administration of justice	
Strategic objectives	
<ul style="list-style-type: none"> • Improve legal services for consumers • Improve opportunities for innovation, growth and profitability amongst legal services providers <ul style="list-style-type: none"> • Ensure effective, efficient and transparent regulation of legal services 	
Operational objectives	
<ul style="list-style-type: none"> • Enable legal services providers to structure themselves in the way that best meets their needs and those of their clients 	<ul style="list-style-type: none"> • Reduce administrative burdens associated with regulation
Regulatory reforms	Other initiatives
<ul style="list-style-type: none"> • Licensing of ABS • Licensing of MDPs • Separate Business Rule 	<ul style="list-style-type: none"> • Changes to the Handbook • Simplifying authorisation processes • Support for small firms and for innovation • Changes to accounts rules

Figure 1 Objectives and intended effects of the reforms



3. Licensing of Alternative Business Structures

3.1 The reform

The introduction of Alternative Business Structures (ABSs) was enabled by the LSA. Previously, only solicitors could own solicitors' firms. The LSA introduced the possibility of Legal Disciplinary Practices (LDPs), i.e. practices which include different types of lawyers as managers, and with up to 25% non-lawyer managers. Non-lawyers who intended to become managers were subject to approval to ensure they were fit and proper.

From 2011, the SRA introduced the possibility of ABSs being authorised to provide reserved legal activities. This has allowed non-lawyers to manage or have an ownership interest in the firm. A firm may also be an ABS where another body is a manager of the firm or has an ownership interest in the firm and at least 10% of that body is controlled by non-lawyers.

According to the SRA, the objectives of this reform have been to:

- Improve consumer choice and value;
- Remove existing restrictions on the ownership of law firms; and
- Allow for increased flexibility through offering integrated legal and other professional activities, including through the licensing of MDPs (see Section 4).³⁰

The Ministry of Justice also expected that “the ABS proposals could provide opportunities for smaller firms employing BAME solicitors to expand, diversify and improve their efficiencies. In addition, the department anticipates that BAME groups on lower incomes, but still within the 'middle bracket' of consumers, will have greater access to legal services through price reductions and competition, potentially improving access to justice”.³¹

At the same time, the SRA has sought to harmonise the regulatory requirements for traditional law firms and ABSs in order to:

- Achieve the same degree of consumer protection for clients of traditional law firms and ABSs; and
- Facilitate transition between the two statutory regimes.

Where there are differences in regulatory requirements, the SRA believes they are justified on the basis of the proportionality of regulatory burden and the degree of risk posed by different types of firm to both consumers and the general public.

3.2 Profile of ABSs

Research by the SRA offers the following profile of ABSs:

- Around 700 firms have been authorised as ABSs, which is equivalent to about 7% of all law firms regulated by the SRA.
- ABSs are less likely than other firms to be relatively small: 36% ABS firms have turnover of between £20,000 and £500,000, compared to 60% of all SRA-regulated firms.

³⁰ <https://sra.org.uk/sra/equality-diversity/impact-assessments/alternative-business-structures-revised.page>

³¹ Ministry of Justice (2006), Regulatory impact assessment of the Legal Services Act

- 64% of ABSs are limited companies, 30% are Limited Liability Partnerships and 6% are partnerships.³²

The main categories of specialisation are as follows:

Table 2: Areas of specialisation of ABSs

Area	% of ABSs
Litigation / Alternative dispute resolution	35%
Other / not specialised	30%
Personal Injury	12%
Commercial / Corporate	11%
Other litigation	8%

Source: SRA (2016) Research and Analysis Profiling and Risk analysis of ABS firms

Based on an analysis of SRA data, the LSB also reported that in 2014/15 new entrants represented 30% of ABSs, conversions by traditional law firms were 64% and exits accounted for 6%.³³

According to the SRA's Register of Licensed Bodies, 26 ABSs have formally ceased to practice. Of these, only one, Abbey Protection Group Limited (trading as Abbey Legal Services, plus one other name) was a quoted company. Some of those that have ceased to practice have been replaced by new ABSs. For example, Gateley LLP was replaced by Gateley plc (see case example in Section 0). As we discuss in Section 3.4.3, some ABSs established by large retail brands have ceased taking on new business, although they have not yet formally ceased to practice.

A recent report by the SRA offers a way of categorising ABSs.³⁴ The research for this study has confirmed the usefulness of these categorisations, as all of the firms interviewed fall into one of these categories. These should be seen as illustrative examples.

- Traditional law firms;
- Private equity investment;
- Retail brands offering legal services;
- Local authority-owned services; and
- Accountants and other professionals offering legal services.

3.3 Efficiency of the ABS authorisation process

The firms interviewed reported an improvement in the authorisation process in terms of administrative burden and time taken. Early authorisations tended to be lengthy (e.g. 6-9 months) and burdensome. However, of the firms interviewed, more recent converts report satisfaction with the process and the time taken.

Some traditional law firms interviewed reported that they are hesitant to convert, as they perceive that the conversion process might be too time-consuming or cumbersome. This perception does not

³² SRA (2016) Research and Analysis Profiling and Risk analysis of ABS firms.

³³ Legal Services Board (2016), Evaluation: Changes in the legal services market 2006/07 - 2014/15

³⁴ Typology drawn from p.25 of the SRA report: "The Changing Legal Services Market".

reflect the experiences of firms that have converted, particularly those that have done so in more recent years (e.g. after 2014), as the time taken to gain authorisation has reduced.

Certain forms of ABS can face particular difficulties in the authorisation process relating to checks on potential individual owners. For example, where a firm is owned by external investors in other countries or by offshore pension funds, there is a need to consider what checks are necessary and proportionate.

Firms are generally satisfied with the support provided by the SRA. Case officers are seen as approachable, supportive and willing to work with the applicant to resolve barriers to authorisation. Some applicants would welcome the chance for an informal discussion in advance of submitting an application. This has not been routinely offered by the SRA although one firm reported that it had been provided on request.

3.4 Effects of the ABS reform

As discussed in Section 3.1, the ABS reform was intended to improve consumer choice and value, remove existing restrictions on the ownership of law firms; and allow for increased flexibility through offering integrated legal and other professional activities.

In this section, we examine the extent to which, and the ways in which, the ABS reform has achieved its intended effects, based on the firms interviewed and the other evidence, including consultations with stakeholders. Since the firms represent only a selection of all ABSs, the findings should be seen as illustrative of certain types of ABS.

3.4.1 Effects on entry

Many ABSs are existing law firms that have converted to ABS status. However, **the removal of restrictions on the ownership of law firms has enabled many genuine new entrants to the market** including the following:

- **Foreign law firms**; of these, the most prominent is Slater and Gordon (see case example below).
- **Multi-Disciplinary Practices (MDPs)**, where the existing firm is authorised as an ABS to provide reserved legal activities. The effects of MDPs are described below in Section 4.
- **New firms owned by an existing professional services firm** (or by the owners of an existing professional services firm); owners of new ABSs include debt collection firms authorised by the FCA, such as PDC Law (see case example in Section 5.3) and accountancy firms, such as Price Bailey (see the case example below).
- **Local authority-owned firms**; some local authorities have established ABSs as social enterprises or other business forms. These can be owned by a single authority or by two or more jointly. They can complement other shared service provision by such arms-length firms. The rationale for such ABSs includes removing the need for unnecessary public procurement (the “Teckal exemption”³⁵), retaining control over service provision and quality, keeping prices low through economies of scale and generating profit for reinvestment in frontline services. One example is

³⁵ The Public Contracts Regulations 2006 requires contracting authorities to award public contracts only after fair competition and only on the basis of the lowest price or the most economically advantageous offer. However, under certain circumstances, a contract let to a third party will not count as a public service contract if “the local authority exercises over the person concerned a control which is similar to that which it exercises over its own departments and, at the same time, that person carries out the essential part of its activities with the controlling local authority or authorities”. This is known as the “Teckal exemption” based on the 1999 judgement of the European Court of Justice: Teckal (C-107/98). The Teckal exemption was formally codified into Article 12 of the EU’s 2014 Directive on Public Procurement and Regulation 12 of the UK’s Public Contracts Regulations 2015.

LGSS Law (see case example below).

- **Retail brands;** there are some instances of established retail brands (e.g. supermarkets) entering the legal services market as ABSs. In the years before the ABS reforms, several brands had established (non-LSA authorised) firms to provide non-reserved legal services, including the AA, Halifax, Which? and the Co-operative group. Such services would be marketed to consumers either individually or as part of a wider package for existing insurance policy holders. Consumers with legal issues would typically be directed to an automated legal document assembly tool and/or a firm of solicitors. Where consumers were referred to a firm of solicitors, the retail brands were reported to receive referral fees of up to 15%. However, the number of retail brands establishing ABSs has perhaps been fewer than expected by some. Much of the media coverage at the time referred to the introduction of ABSs as "Tesco Law", though Tesco itself has not established an ABS.³⁶
- **Trade union-owned;** a small number of new ABSs have been established by trade unions, such as UnionLine (see case example below).

The boxes below provide case examples of each of these types.

Case example (Foreign law firm): Slater and Gordon

Slater and Gordon is a multinational law firm with 2,500 employees and its headquarters in Australia. For Slater and Gordon, authorisation as an ABS represented the only way that the firm could enter the market in England and Wales. The firm gained authorisation for two new ABSs in 2012:

- Slater and Gordon (UK) LLP was licensed from April 2012. The firm provides a range of reserved and non-reserved activities, including in the areas of personal injury, clinical and medical negligence, family law, property law, wills, tax, trusts and probate. As well as Slater and Gordon, the firm also uses other trading names including Russell Jones (an existing top-100 law firm, which Slater and Gordon acquired in 2012) and Walker.
- Slater Gordon Solutions Legal Limited was licensed from December 2012. The firm handles personal injury claims and is regulated by both the SRA and the FCA. As well as Slater Gordon Solutions Legal Limited, the firm also uses other trading names: Pinto Potts Solicitors, Compass Law, Compass Costs Solutions, Fast Claim PPI, Accident Advice Helpline.

Slater and Gordon's UK operation then grew further through the acquisition of several other firms, including Fentons, Flint Bishop (personal injury practice only), Goodmans Law, Taylor Vinters, John Pickering and Partners, Pannone, Leo Abse & Cohen and Walker Smith Way.

³⁶ See: <http://www.bbc.co.uk/news/uk-17538006> and <http://www.telegraph.co.uk/news/1500817/Lord-Chancellor-unveils-Tesco-law-reforms.html>

Case example (New firm owned by an existing professional services firm): Price Bailey Legal Services LLP

Price Bailey Legal Services is an ABS owned by Price Bailey LLP, an accountancy and business advisory firm employing 350 people. It was the first firm owned by an accountancy practice to be authorised as an ABS. The ABS licence was granted in March 2013 and became effective on 1 April 2013.

The rationale for establishing the ABS was to develop a new business to provide legal advice relating to human resource and employment issues. Clients of the accountancy practice regularly require such legal services but the firm was previously unable to offer these services as part of its overall business advisory package. Although the legal services firm is owned by the accountancy practice, the two firms are separate legal entities. Clients are regularly referred from the accountancy practice but still have to be engaged separately by the legal services firm.

Case example (Local authority-owned): LGSS Law

LGSS Law Ltd is a wholly owned local authority law firm, specialising in services to the public sector. It is a shared service of LGSS, which is jointly owned by Cambridgeshire County Council, Central Bedfordshire Council and Northamptonshire County Council. LGSS was established in 2010 through the merger of the Corporate Services operations of Cambridgeshire and Northamptonshire County Councils into a single, shared service providing all professional, transactional and operational services to both organisations. LGSS employs 800 staff providing a range of services (e.g. audit, property, IT, human resources) to over 300 public sector customers.

LGSS Law was formed in April 2015 from the merger of the legal teams for Cambridgeshire and Northamptonshire County Councils. It operates as a social enterprise and employs 150 people in specialist teams located in branch offices in Huntingdon, Cambridge, Northampton and Bedfordshire (Shefford). The firm now serves more than one hundred organisations across the public and not-for-profit sectors including, local authorities, clinical commissioning groups, foundation trusts, charities and fire services. Legal services cover corporate governance & regulatory matters, children & adult social care, commercial property matters, highways orders, district law, employment law matters, regulatory risk, litigation & public law matters, contracts & commercial business arrangements and public procurement.

Case example (Retail brand): BT Law

BT Law was authorised as an ABS in March 2013. Previously named BT Claims Limited, the firm mostly serves business clients, drawing on its experience in providing legal services to BT plc. The firm was granted a waiver to enable the managers of two companies which are owners of BT Law to not require approval for a maximum of two years. At the time of authorisation, BT Law employed a legal team of 20, mostly solicitors, and provided an in-house motor claims management service for a fleet of over 35,000 vehicles. According to a statement from BT Law, the firm planned “to offer an in-house end-to-end motor claims solution for businesses from incident notification, through investigation and resolution and now including full litigation management”.³⁷

³⁷ <https://www.lawgazette.co.uk/practice/bt-law-is-born-as-claims-unit-granted-abs-licence/69708.article>

Case example: (Trade union-owned): UnionLine

Trade Union Legal LLP was licensed as an ABS in May 2014. Trading as UnionLine, the firm was established by the GMB and Communication Workers Union (CWU) to provide a broad range of legal services to their members. UnionLine is wholly owned by the two unions and operates on a not for profit basis. Services include personal injury claims, employment rights, motor legal services, conveyancing and wills. The firm employs 50 staff at its offices in Sheffield. Some services are referred to a panel of external law firms, in part due to the level of demand. UnionLine has expressed an ambition to act as the panel firm for other, smaller unions and potentially, in time, to consumers in general.³⁸

3.4.2 Effects on ownership and structure

Evidence gathered during the study demonstrates that the removal of restrictions on the ownership of law firms has contributed to diversifying the ownership of law firms. Indeed, the ABSs interviewed included some that were owned by non-lawyers including partners, owners of subsidiaries and external investors (flotations). A recent survey shows that two thirds of lawyers believe that traditional law firm partnerships will be less prominent in 10 years' time, whilst 77% believe that ABSs will have a larger role.³⁹

The ABS reform has enabled wider ownership of traditional firms, including by non-lawyer managers and employees. For some of the firms interviewed, the main driver for converting to ABS is the promotion of non-lawyers into senior positions, e.g. partner. A survey by the LSB found that this was the most commonly-reported motivation for seeking authorisation (by the SRA or by the Council for Licensed Conveyancers) as an ABS, being reported by 23% of ABSs that responded.⁴⁰ Some of the firms interviewed that had not converted reported that they might consider doing so in future in order to give non-lawyers equity status. This goal has been achieved by firms converting.

Linked to this, **conversion to ABS can be driven by a desire to allow ownership of the firm by staff** in order to share profits with them – creating greater incentives to raise performance and remain with the firm. Some firms report that this has been achieved in practice: there is better progression, remuneration and rewards at all levels resulting from wider ownership of the firm by staff. This also offers the potential for EDI impacts: since BAME solicitors are under-represented at senior level in traditional law firms, their opportunities for ownership have been limited. However, in instances where firms use ABS status as an opportunity to promote employee ownership, this could reduce this disparity.

At the same time, **traditional firms that convert to ABS status tend to make only gradual changes to their equity structure.** For some of the firms interviewed, ABS status has simply allowed one non-lawyer, often a Finance Director, to become a partner.

Some traditional firms have used the conversion to ABS as an opportunity to restructure and/or apply a different business model. Interviews of ABSs identified examples of joint ventures and mergers, acquisitions, creation of subsidiaries, creating a Board of Directors and adopting different capital structures. Conversion to ABS can be seen as an opportunity for traditional law firms to change the culture of the firm and improve its operations, particularly through attracting/promoting/retaining non-lawyers with corporate management expertise.

³⁸ <http://www.legalfutures.co.uk/latest-news/theres-nothing-to-stop-us-competing-with-you-trade-union-abs-warns-high-street-firms>

³⁹ <http://www.legalfutures.co.uk/latest-news/survey-predicts-partnerships-out-abs-in>

⁴⁰ Legal Services Board (2016), Evaluation: Changes in the legal services market 2006/07 - 2014/15

The ABS reform has facilitated the flotation of traditional law firms. ABS status has allowed at least one firm, Gateley, to undergo a flotation, as described in the box below. This flotation has generally been regarded as successful, particularly since clients of the firm have invested in the firm.

Case example: Gateley plc

Gateley LLP converted to ABS status at the end of 2013, with its licence becoming effective on 1 January 2014. One of the main drivers of conversion was to allow the Financial Director to become a partner in the firm. However, conversion to ABS allowed Gateley (Holdings) to be floated on the stock market at a later date. The flotation happened in June 2015 when the firm became a publicly-quoted company, Gateley (Holdings) plc, admitted to trading on the Alternative Investment Market of the London Stock Exchange. The initial public offering raised £30m from the sale of 31.6m million ordinary shares at the placing price of 95p. This represented a 30% share in the firm, which was valued at £100m.⁴¹ Approximately 10% of gross placing proceeds were monies raised from Gateley clients.⁴²

The LLP ceased to practice on 1 May 2015 and its licence was revoked on 9 November 2015. In the meantime, a new ABS, Gateley plc, had been authorised to operate by the SRA.⁴³

The ABS reform has facilitated foreign ownership of firms. This has allowed new entrants into the market (see Section 3.4.1 above) and facilitated investment in firms (see Section 3.4.3 below).

Some trade unions now own law firms. In some cases, trade unions have established new ABSs, such as in the case of UnionLine (see case example in Section 3.4.1). In other cases, the ABS reform has enabled trade unions to take ownership or part-ownership of an existing ABS. For example, the Transport Salaried Staffs' Association (with 22,000 members) took part ownership of Morrish Solicitors soon after the law firm was authorised as an ABS in December 2013. This ABS employs 100 people in Leeds, Bradford, Yeadon and Pudsey.

3.4.3 Effects on growth and investment

Part of the rationale for removing restrictions on the ownership of law firms is to encourage investment in legal services and improve services for consumers, whilst also improving opportunities for innovation, growth and profitability amongst providers. The evidence gathered by the study suggests that the reforms do facilitate new investment but this arises in different ways for different types of ABS and generates different effects.

The majority of ABSs have made investments since obtaining their licence. In a recent report, the LSB notes that 52% of ABS had made an investment in their business since obtaining their licence and another 14% are planning to do so. Such investments mainly relate to hiring more staff, increasing marketing activity or purchasing IT equipment.⁴⁴

External sources of finance account have funded investments in only a small proportion of ABSs. Indeed, only 12% of ABS had used any form of external finance, according to the recent LSB report. Instead, the most frequent source of funding for investments was business profits or cash reserves, which were used by 49% of ABSs, followed by bank loans (29%) and overdraft facilities (27%). Capital injections by owners/partners were also common, whether by existing owners/partners (24%), new

⁴¹ <https://www.lawgazette.co.uk/news/ipo-to-value-gateley-at-100m/5049106.article>

⁴² <https://www.thelawyer.com/issues/online-june-2015/gateley-raises-30m-after-first-law-firm-flotation-on-lse/>

⁴³ <https://www.thelawyer.com/issues/online-june-2015/gateley-raises-30m-after-first-law-firm-flotation-on-lse/>

⁴⁴ Legal Services Board (2017), Evaluation: ABS and investment in legal services 2011/12-2016/17

owners/partners who are authorised persons (20%) or new owners/partners who are not authorised persons (2%).⁴⁵

The attraction of new investment or the flotation of a firm has not been an immediate driver of ABS conversion for many traditional law firms. For example, of those ABSs taking the form of an LLP or other type of partnership, only 2% had received any form of external funding.⁴⁶ Instead, as discussed above, the main driver for traditional firms converting to ABS has been the promotion of non-lawyers into senior positions, e.g. Partner. Moreover, the LSB refers to research highlighting that “the ability to accept and incentivise external or internal investment remains missing in a large number of traditional law firms with partners having no incentive to accept external investment or to invest themselves for fear of losing long held annuity streams without adequate compensation”.⁴⁷ Clearly, such constraints on and disincentives to investment may persist for many traditional law firms that convert. However, some of the firms interviewed considered the attraction of investment as a future possibility at the time of conversion, which has therefore contributed to the decision to convert.

ABS status has increased the opportunity for foreign firms to invest in the UK legal services market through the acquisition of firms. One of the most prominent examples has been Slater and Gordon, a multinational law firm headquartered in Australia (see case example in section 3.4.3 above).

Where existing firms owned by solicitor-partners have used the opportunity of ABS to seek external equity, this is driven by a variety of factors, including extracting value/capital for the owner, funding acquisitions and growth, and drawing on the financial acumen of investors. The recent LSB report found that, for some ABSs, bank funding was not appropriate because of the scale of capital required for investments, for example in technology, that can make the business more efficient and increase market share.⁴⁸ One driver for external investors can be the opportunity to control their main supplier of legal services. For some of the firms interviewed, ABS status has allowed the attraction of private equity investment, which can then fund acquisitions. Similarly, a review by the LSB of articles published in Legal Futures, Law Gazette, and the Solicitor Journal has identified examples of ABSs securing new forms of financing in the form of private equity investment and stock market flotation.⁴⁹

Whilst ABS status can help a law firm attract the investment funds needed for acquisitions, such acquisitions pose the “usual” risks associated with any investment. As in any sector of the economy, firms need to undertake the required level of due diligence prior to finalising any merger or acquisition. There are instances of ABSs making investments that fail to deliver the expected return or even lead to a loss. This is not a failure of regulation, but may affect consumers if the law firm they are using ceases operation or downsizes following an unsuccessful investment. Perhaps the most prominent example of such an investment was the acquisition of the professional services division of Quindell by Slater and Gordon in March 2015 for £637m. This acquisition increased Slater and Gordon’s share of the UK personal injury law market from 5% to 12%, making the firm the largest law firm in the country with respect to personal injury. However, difficulties with the newly-

⁴⁵ Legal Services Board (2017), Evaluation: ABS and investment in legal services 2011/12-2016/17

⁴⁶ Legal Services Board (2017), Evaluation: ABS and investment in legal services 2011/12-2016/17

⁴⁷ Arden Partners (2016), Analysis of external and corporate investment in UK law firms: sustainable momentum established (quoted in Legal Services Board (2016), Evaluation: Changes in the legal services market 2006/07 - 2014/15)

⁴⁸ Legal Services Board (2017), Evaluation: ABS and investment in legal services 2011/12-2016/17

⁴⁹ Legal Services Board (2016), Evaluation: Changes in the legal services market 2006/07 - 2014/15

acquired firm (including an investigation by the Serious Fraud Office and a restatement of historical accounts) led to Slater and Gordon posting a loss of £577m in the year to June 2016.⁵⁰

Some retail brands have exploited opportunities for innovation, growth and profitability whilst others have struggled to deliver a profit or have exited the market. With the advent of ABSs, several leading retail brands established ABSs and announced ambitious plans for growth. Some have proved commercially successful, such as Cooperative Legal Services (see Co-op Legal below).

Case example: Co-op Legal

The expansion of services by Co-op Legal has not fulfilled expectations. For example, the plan to increase staff numbers to 3,000 (up from 450 in 2012) has not been achieved. Difficulties have been faced in family legal aid contracts, which have not been renewed, and in the proposed changes to personal injury (Autumn Statement 2015). These have contributed to losses in 2014 and lower than expected profits overall. Such difficulties also reflect wider problems in the Co-operative Group, which announced a record loss of £2.5bn in 2014.⁵¹ However, the situation has since improved with the firm breaking even in 2015 and delivering a 4% profit of £700k on sales of £18m in 2016. The improvement was reported to be due in part to acquisitions and growth in probate and estate administration services.⁵²

3.4.4 Effects on the provision of services and on innovation

There is no such thing as a “typical” ABS and therefore the impact of the reform varies widely. However, some effects identified for the firms covered by the study are as follows.

For some Legal Disciplinary Practices, the purpose of conversion to ABS status has been to allow non-solicitors to continue in roles that are similar for most practical purposes rather than to provide new or expanded services. For example, Freeths was licensed as an LDP in order to allow three non-solicitors to operate as partners or managers. The main purpose of ABS conversion was to allow these individuals to continue in these roles, rather than to enter new markets or provide new services.

Entering new markets and/or providing new services is not the main driver for some traditional firms seeking ABS status. Many traditional firms are seeking to enter new markets or provide new services, but they tend not to see ABS as providing any great advantage over traditional structures in that sense. However, the opportunity to enter new markets or provide new services might be sufficient for firms to consider ABS, if they perceived that ABS would create such opportunities in practice. In practice, some of the traditional firms interviewed have not substantially widened or changed their client base or substantially expanded or changed the services offered, as a result of conversion to ABS. Some report that any changes to service provision would mostly have been possible without ABS status, as they do not feel constrained by traditional structures.

ABS conversions driven by private equity investment do not necessarily lead to substantial change in the types of service provided. Those investors interviewed recently by the LSB tended to emphasise the potential for increased returns via cost savings and consolidation rather than from the launching of new services.⁵³ One of the firms interviewed for this study reported that ownership

⁵⁰ <http://www.telegraph.co.uk/business/2016/09/19/slater--gordon-to-sue-watchstone-after-disastrous-637m-quindell/>

⁵¹ <https://www.ft.com/content/a71c2556-c2fa-11e3-b6b5-00144feabdc0>

⁵² <http://www.legalfutures.co.uk/latest-news/co-op-legal-services-recovery-continues-growth-sales-profit>

⁵³ Legal Services Board (2017), Evaluation: ABS and investment in legal services 2011/12-2016/17

of ABSs by external investors can, in some cases, slow the pace of decision-making, as investors may expect to be consulted on certain issues and do not (at least at the outset) always have the in-depth understanding of the legal services market that the solicitor-directors have.

ABSs appear, however, to be significantly more likely to innovate in service provision than non-ABSs. A survey by the Legal Services Board in 2013 found that Alternative Business Structures made greater use of technology to deliver services than did other firms.⁵⁴ According to a more recent survey, ABSs are particularly likely to have introduced radical service innovations, organisational innovations or service innovations in the last three years compared to non-ABSs. The table provides a summary of the results of that survey.

⁵⁴ Legal Service Board (2013), Evaluation: Changes in competition in different legal markets

Table 3: Extent of innovation by ABSs and non-ABSs

Type of innovation	ABSs (n=93)	Non-ABSs (n=850)	All solicitors (n=943)
	%	%	%
Service Innovation	36.2	24.2	25.3
Radical service innovation	13.0	6.2	6.8
Delivery innovation	29.5	25.3	25.6
Strategic innovation	28.6	15.9	17.0
Management innovation	20.1	18.4	18.5
Organisational innovation	40.6	20.3	22.4
Marketing innovation	57.8	34.5	36.6

Source: Enterprise Research Centre (2015), *Innovation in Legal Services*

The same research has found that ABSs:

- are more open to new ideas than non-ABS organisations;
- have higher levels of investment in research and development;
- generate a higher proportion of turnover from new services than non-ABS organisations;
- are innovating across more aspects of their activities than non-ABS organisations;
- spend on average more than twice as much of their turnover on reputation and branding than do non-ABSs; and
- are nearly three times as likely to be using some form of intellectual property protection.⁵⁵

Linked to this, the current study has identified **instances of ABSs (or certain types of ABSs) increasing choice and competition, improving services to consumers, reducing price and driving innovation in service provision**. These can include increased use of fixed hourly rates or fixed prices (particularly for individual consumers). Co-op Legal provides an example (see box below).

Case example: Co-op Legal

The establishment of Co-op Legal as an ABS has enabled it to introduce services and pricing that are more specifically targeted at a mass consumer market. This includes fixed prices for some services or fixed hourly rates otherwise and detailed quotes on price does not change. It also includes greater opportunities to provide legal services provided by phone, email or post as well as face-to-face.

One feature of the Co-op model is that its members receive a 5% personal reward for using Co-op Legal. Although this is a longstanding practice of the Co-op in respect of other goods and services, it is an innovation for the legal services market.

⁵⁵ Enterprise Research Centre (2015), *Innovation in Legal Services*, p.21.

ABSs owned by local authorities and other public sector bodies can provide a service that is highly valued and appropriate to their needs of their clients, in part because they remain under the control of those clients. There are examples of ABSs that are achieving the aims set for them, i.e. they are retaining a public service ethos, retaining and developing specialist legal expertise, and making savings that can be shared between customers (low prices), the ABS (reinvestment in services) and owners (small dividend). They can also offer a high degree of transparency and accountability through the democratic oversight offered by the local authorities. Where the ABS is owned by more than one public body, it can be preferable to have a single corporate body, which employs all staff, and uses a single case management system. This arrangement can produce economies of scale, e.g. through centralised back office functions or a single cloud-based case management system. Successful ABSs of these types, such as LGSS Law, have expanded in terms of staff and turnover and taken on other customers, e.g. NHS Trusts, housing associations, schools, charities.

3.4.5 Effects on consumers

The consumers consulted commented on issues such as access, quality and cost and the trade-offs that they must sometimes make between the level of protection and price. Those views have been complemented by evidence from stakeholder and firm interviews and desk research (e.g. document review). Most of the reforms are “upstream” of consumers; most effects on consumers will therefore be indirect. Moreover, external factors, such as the reforms of legal aid introduced by the LASPO, are likely to have a greater impact on the access to justice of certain groups of consumers, particularly those that would previously have received legal aid related to housing, welfare, medical negligence, employment, debt and immigration.

The research has identified no evidence that the introduction of ABSs, as well as the revision of the Separate Business Rule, have so far had any adverse effects on consumers. Instead, the research suggests that the introduction of ABSs could potentially benefit consumers, albeit in some cases in the medium to longer term.

Some ABSs are more accountable to their clients than traditional law firms, where those firms are, in effect, owned by their clients. They include ABSs owned by co-operatives and trade unions and whose clients are the members of those bodies. For example, UnionLine lists as one of its benefits the fact that it will not make deductions from personal injury awards made to its clients.⁵⁶ However, some other ABSs might offer no particular benefit for consumers compared to traditional law firms. For example, many traditional firms convert to ABS for “internal” reasons and have not focussed on widening access to their services, diversifying their client base or reducing prices any more than they would have done without converting to ABS.

The introduction of ABSs has facilitated the entrance of new firms who might not otherwise have entered the market, although these perhaps represent only a modest proportion of ABSs However, such new competition offers the potential, in time, to reduce prices and improve services for consumers, particularly if the number of new entrants steadily increases in number. Where trade unions acquire or establish law firms by trade unions also offers the potential to address unmet legal needs and serve a more diverse client basis.

ABSs owned by retail brands have the potential to inspire confidence in consumers and facilitate their choice of solicitor, although this potential has not yet been fully realised. A previous SRA focus group with consumers highlighted the greater trust that might be associated with a strong and reputable retail brand. However, the full potential of ABSs has not as yet been realised, as relatively few retail brands have entered the legal services market. Given that some high-profile brands have

⁵⁶ <http://www.gmb.org.uk/newsroom/union-law-firm-gets-go-ahead>

ceased taking on new business and others have struggled to fulfil their ambitions for growth (e.g. Co-op), other brands might be discouraged from establishing ABSs.

The entry of retail brands and other new firms as ABSs offers the potential to improve services to consumers who no longer qualify for legal aid, although this potential remains unrealised due to the difficulties faced by retail brands in entering the legal services market (as already described). One prominent brand, Co-op Legal Services has specifically targeted such consumers but has not reached as many as originally intended.

Co-op Legal Services has also introduced fixed prices for some services or fixed hourly rates and detailed quotes on price that do not change according to the particular case being dealt with. This addresses a key concern of the individual consumers consulted over the transparency of charges made by solicitors' firms and highlighted by the CMA report and other research (see Section 2.1). This was also highlighted by a previous SRA focus group with consumers that current pricing structures are not always very clear, especially where initial appointments and letters are charged for, and they expressed a preference to pay upfront for a solicitor's services.

The individual consumers consulted expressed indifference to whether a firm was an ABS or a traditional law firm. Instead, they tend to place more emphasis on the previous experiences of family and friends, in part because of the "information asymmetry" between consumers and lawyers. For that reason, word-of-mouth seems to be most the common method of selecting a lawyer amongst individual consumers. However, the consumers expressed some unease about legal services provided by firms such as insurance companies (e.g. motor insurance claims) or by law firms recommended by property developers or estate agents (conveyancing). Consumers are concerned about a possible conflict of interest or lack of transparency and some complained about receiving a slow or poor service. At the same time, such services were usually priced competitively. Consumers may also be unaware who owns the firms that they use, e.g. firms trading under different names but owned by same firm. But there are some instances of uniform branding introduced.

Similarly, the small business consumers consulted also expressed relative indifference to whether a firm was an ABS or a traditional law firm. Indeed, ownership of an ABS by a non-lawyer is not a particular concern to them. For these consumers, the main criterion for selecting a lawyer is their trustworthiness and competence and, for that reason, word-of-mouth seems to be most the common method of selecting a lawyer, again, reflecting the "information asymmetry" between consumers and lawyers. This is consistent with previous research commissioned by the SRA, which found that most consumers choose their provider following a recommendation from a trusted, source, either family, friends, personal networks or other trusted professionals, such as an independent financial advisor or an estate agent.⁵⁷

Evidence from the focus group of small business consumers suggests the importance of being able to choose from a diversity of suppliers and having providers that can respond flexibly, as the needs of the consumer change over time. In the early days of establishing the business, the small business consumers required unreserved activities and several had made use of unregulated providers on the basis of personal recommendations. However, as they expand, some then needed reserved activities. In some cases, they could make use of the same provider, if regulated by the SRA, whereas in other cases, they would have to identify a new firm.

The data on misconduct does not suggest that ABSs pose greater risks to consumers, although there are some differences between ABSs and other firms regarding the extent and nature of misconduct. SRA data finds that 32% of all reported allegations against ABS firms are assessed by the SRA as "amber" or "red", compared to 39% for all firms. This rose to 57% for small ABSs compared to 49% of all small law firms regulated by the SRA.

⁵⁷ GfK NOP Social Research (2010), Research on Consumers' Attitudes towards the Purchase of Legal Services

SRA data on the outcome of investigations shows that ABSs are no more prone to serious misconduct than are other firms. Although ABSs have a higher proportion of upheld outcomes (11%) than non-ABSs (9%), the outcome of the majority of them (9%) was classified as “No further action – Issue of misconduct – Resolved with engagement” compared to only 5% for non-ABSs. Thus only 2% of reported allegations of misconduct relating to ABSs resulted in further action, compared to 5% for non-ABSs.⁵⁸

The SRA has also found that a higher proportion of ABSs (25%) self-report breaches than non-ABSs (14%). However, this reflects, in part, the fact that large firms are generally more likely to self-report breaches and ABSs are more likely to be large firms (turnover >£1m p.a.) than non-ABSs. When only large firms are considered, non-ABSs are more likely to self-report breaches than are ABSs. There is no significant difference between ABSs and non-ABSs regarding the likelihood of enforcement action.⁵⁹

3.4.6 EDI impacts

All the firms interviewed were keen to highlight their commitment to equality, diversity and inclusion (EDI). There was also recognition that the solicitors’ profession needs to make more/better progress on EDI both in terms of recruitment and progression and in terms of serving consumers.

There was a consensus amongst the firms and stakeholders interviewed that ABS and MDPs have not been harmful to EDI, although they offer only modest potential for positive EDI impacts.

Instead, the firms and stakeholders interviewed reported that the bigger drivers of EDI in respect of entry to the profession tend to include: corporate culture, strategic/policy commitment, location of firm (i.e. firms in localities with more diverse populations have a more diverse workforce) and wider social effects (e.g. differences in educational attainment of different groups in society). Similarly, the LSB reports that “the fundamental underlying issue with diversity in the profession is cultural, and not to do with legal ownership structures”.⁶⁰ Some firms saw more potential for EDI impacts from other SRA reforms, notably reforms of the Solicitors Qualifying Exam (SQE), etc. There is a need for comprehensive data, which will help clarify the EDI impacts of ABSs. For example, future editions of the SRA reports on “Workforce data for solicitors’ firms” could provide breakdowns between ABSs and other law firms.

Where ABSs take the form of a company, this might offer the potential for greater recruitment of ethnic minority staff, since companies regulated by the SRA employ a higher proportion of staff from ethnic minorities (35%) than do LLPs (10%) or other types of partnership (16%).

Similarly, positive EDI impacts might also arise where ABSs consist of large accountancies, insurance companies or retail brands. Such firms often bring greater commitment to and experience of promoting EDI than traditional law firms. For example, BT Group (which owns BT Law) is accredited as a “Two Ticks” employer, meaning that the firm will put any applicant with a disability or long-term health condition, who meets the minimum criteria for any vacancy, through to the first stage of the recruitment process.⁶¹ Amongst the firms interviewed, a large accountancy firm gave specific instructions to its recruitment consultants to provide a diverse range of candidates for new posts in the legal services team; as a result, the team of 60 is particularly diverse. Similarly, ABSs owned by local authorities, such as LGSS Law or by trade unions also offer the potential for EDI impacts amongst staff due to the strong commitment of their parent bodies to EDI. For example, UnionLine reports that: 60% of its employees were the first generation of their family to go to university (34% across all SRA-registered firms) and 10% of employees considered themselves to

⁵⁸ SRA (2016), Profiling and Risk analysis of ABS firms

⁵⁹ SRA (2017), Firms’ self-reported matters: Jan 2014-Dec 2016

⁶⁰ Legal Services Board, The potential impact of Alternative Business Structures (ABS) on the diversity of the legal workforce

⁶¹ <http://www.btplc.com/Careercentre/WhyjoinBT/Diversityandequality/Diversityandequality.htm>

have a disability under the definitions of the Equality Act 2010 (2% across all SRA-registered firms). The percentage of BAME employees at UnionLine was slightly lower than in all SRA-registered firms (15% versus 17%).⁶²

Firms and stakeholders interviewed reported that the bigger drivers of EDI relate to the overall accessibility of legal services, rather than to the specific reforms covered by this study (which are “upstream” of consumers). One reason for this is that, as explained in Section 3.4.4, many ABS applications made by traditional firms (who account for around two-thirds of ABSs) are not specifically driven by an ambition to enter new markets and/or change their service offer. For example, for one firm of solicitors providing legal services to the health and social care sector, the main rationale for conversion was to allow the managing partner’s wife (a medical consultant) to become a director and own part of the business. However, ABSs owned by trade unions and serving the membership of those unions would tend to offer the potential for EDI consumer impacts as female, disabled and black employees constitute a greater share of union members than in society generally.⁶³ Moreover, the sheer size of union membership would suggest that union-owned ABSs offer the potential to reach consumers that would not otherwise access solicitors, for example, the +800,000 members of the GMB and Communication Workers Union (which own UnionLine).

Some ABSs have targeted a mass consumer market, including consumers that have lost access to legal aid, e.g. Co-op Legal. This would tend to increase the diversity of consumers served by solicitors and improve quality of access and promote inclusion. However, the full potential of ABSs to reach a wider and more diverse customer base has perhaps not yet been realised due to the relatively limited number of retail brands establishing ABSs and the fact that ambitions have not always been realised (e.g. Co-op Legal) and some have ceased taking on new business. Moreover, the recent reforms to legal aid have required some ABSs to adapt their business models and reduce their cost base quite considerably. This may have limited their ability to reach a wider and more diverse customer base, particularly disadvantaged groups and those that are no longer eligible for legal aid. For example, one provider of personal injury legal services reported that the number of clients it serves had fell from around 70,000 in 2013 to less than 40,000 in 2016 due to the legal aid reforms introduced by LASPO. This would suggest that some of the positive EDI impacts arising from ABSs will be outweighed by the impact of the legal aid reforms.

⁶² <http://www.unionline.co.uk/2015/11/unionline-publishes-equality-and-diversity-data/>

⁶³ Department for Business, Innovation and Skills (2015), Trade Union Membership 2015: Statistical Bulletin.

4. Licensing of multi-disciplinary practices

4.1 The reform

According to the SRA's policy statement of September 2014, a multi-disciplinary practice (MDP) is a licensed body that combines the delivery of reserved legal activities with other legal and other professional services, such as accountancy, land and housing management, corporate services or financial services.⁶⁴ Reserved legal activities provided by MDPs remain regulated by the SRA. Non-reserved legal activities delivered by MDPs, if not regulated by the SRA, will usually be regulated by another regulator. For example, the Financial Conduct Authority (FCA) makes no distinction between reserved and non-reserved activities and will therefore regulate all the activities of the firms that it authorises. A legal activity provided by an MDP that falls out of SRA regulated activity will not be subject to many of the provisions in the Handbook, such as professional indemnity insurance, the Compensation Fund and the Accounts Rules but will normally be subject to broadly equivalent arrangements by another regulator. The SRA requires MDPs to act in the client's best interests and not to 'case split' in a way that removes appropriate protections or which will leave the client confused as to the regulatory position. With respect to Professional Indemnity Insurance, the SRA expects MDPs to use the same insurer across all of their activities to avoid consumers being prejudiced by disputes over which policy covers a particular situation.⁶⁵

MDPs, as a whole, are authorised and regulated by the SRA and those who own or work within them must comply with SRA rules and principles. Solicitors working within the MDP are subject to personal regulation by the SRA, whilst other authorised individuals are subject to the relevant personal requirements of their own regulator. In any conflict between the rules of the Approved Regulator (an entity requirement) and the rules of another regulator (an individual requirement) the entity requirement prevails. In some cases, the SRA may choose not to regulate an activity, provided that the activity is subject to a suitable external regulatory regime. Such a regime would have to ensure compliance with certain principles, such as upholding the rule of law, acting with integrity and acting in the best interests of each client. The SRA has confirmed that a number of external regulatory regimes satisfy this requirement:

- Association of Chartered Certified Accountants (ACCA);
- Association of Taxation Technicians (ATT);
- Chartered Institute of Taxation (CIOT);
- Financial Conduct Authority (FCA);
- Insolvency Practitioners Association (IPA);
- Institute of Chartered Accountants in England and Wales (ICAEW); and
- Royal Institution of Chartered Surveyors (RICS).

4.2 Effects on providers

As of April 2014, the SRA reported that the number of applications from MDPs had been "in the tens rather than the hundreds"⁶⁶, although more up-to-date data was not available. Based on the

⁶⁴ SRA Policy Statement, September 2014: <https://www.sra.org.uk/sra/policy/policies/multi-disciplinary-practices-sept-2014.page>

⁶⁵ SRA Policy Statement, September 2014: <https://www.sra.org.uk/sra/policy/policies/multi-disciplinary-practices-sept-2014.page>

⁶⁶ <http://www.sra.org.uk/sra/policy/policies/multi-disciplinary-practices.page>

interviews, a range of accountancy firms and other professionals have expanded provision of legal services through newly-established ABSs. They include the global accountancy practices, other financial services providers (e.g. wealth management providers) and debt collection firms.

For the global accountancy practices, the main driver is to provide the full range of professional and business services required by clients (including reserved activities) by creating a dedicated service under SRA oversight. These firms have integrated legal services into their overall business services offer and their legal services teams can now sit in same office as other professionals. In this way, the firms consider that they are providing a better service to clients, e.g. when clients wish to litigate, they no longer need to use another law firm or do it themselves. There is also evidence that creating multi-functional teams of different professionals (including lawyers) can promote innovation and improve communication, information exchange and mutual learning.⁶⁷

Case example: EY Law

EY, the multinational professional services firm with its headquarters in London, has launched a new legal services practice in the UK. EY had been involved in legal services in the late 1990s and early 2000s when its legal services business was a stand-alone entity. However, like some of the other big accountancy firms, EY reduced its provision of legal services following the bankruptcy of the American energy, commodities, and services company, Enron, which was linked to fraudulent accounting practices at Enron.

Whilst the global EY business started to rebuild its legal services arms from around 2005, this did not happen in the UK until the LSA. This was both a response to regulatory reform and to demand, as clients were increasingly requesting the provision of legal services alongside other professional services already provided by EY, such as tax, people, advisory and transactions services. For example, EY's legal services team works with the firm's tax and transaction advisory team on mergers, acquisitions and group reorganisations, with human capital professionals on employee reward and mobility projects and with the financial services advisory practices on the legal aspects of regulatory issues facing clients.

EY's licence became effective on 1/12/2014 and the firm launched its legal services practice in March 2015. The team includes around 100 people and there is an initial 5-year plan to grow the business. Unlike the situation pre-Enron, EY's UK legal services team is now an integrated part of EY, not a separate business. For example, the legal services team sits on the same office floor as the other professionals. Clients are therefore served in an integrated way, with legal services provided alongside other professional services.

Given their size and capacity, the large accountancy practices perhaps offer more potential than many law firms to make greater use of technology in the provision of legal services. This includes new software to facilitate document automation and increase the quality and speed of producing documents. It also includes new IT platforms to help due diligence. As MDPs, the accountancy firms are able to draw on the extensive technological innovations in the financial sector (known as "FinTech") and adapt those innovations to the provision of legal services. For example, EY has appointed a partner with extensive FinTech experience to its UK legal services business specifically to grow a legal technology team and to support the firm's wider technology practice.⁶⁸

⁶⁷ Enterprise Research Centre (2015), Innovation in Legal Services, p.21.

⁶⁸ <http://www.ey.com/uk/en/newsroom/news-releases/16-02-11---ey-appoints-partner-to-lead-tech-drive-in-growing-uk-legal-team>

With ABS status, these firms are increasing their legal service provision both through mergers and acquisitions and through an increase in practising solicitors employed. In particular, they are providing more transactions for (existing) corporate clients. The global accountancy practices have mostly expanded their provision of legal services as an add-on to their wider professional services offer; most clients have been referred internally to the legal services teams rather than vice versa. However, as their legal practices grow, one might assume that the global accountancy practices will start to market themselves more specifically as law firms. Legal services will then increasingly become the “entry point” into the provider, with clients then referred onwards to a wider range of professional services. Likewise, the introduction of ABS enables the larger accountancy firms to offer a more comprehensive package of audit, consulting, legal, IT and other services, which can be important to many larger clients that want issues addressed in a holistic and integrated way.

Steps have been taken by the firms and the SRA to avoid the need for the entire business to come under the regulatory oversight of the SRA, e.g. tax advice given by non-legal professionals (since legal services forms a small part of all their work), as the Code of Conduct is restricted to SRA-regulated activities. In any case, these firms pose relatively low risk as much of the non-SRA-regulated part of the business comes under regulatory oversight of FCA and ICAEW.

Case example: KPMG

As a global provider of professional services, KPMG had been considering MDP status for some time before formally entering into dialogue with the SRA in 2013. A key concern from the outset, was to ensure that if the firm became a regulated licensed body, the SRA’s regulatory oversight would not be unnecessarily extended to non-legal professional services overseen by other regulators or to activities that would not otherwise be subject to regulation by the SRA. For example, tax advice provided by non-legal tax professionals within the firm which were, and continue to be regulated by the ICAEW.

Another concern was the requirement for all managers or owners of the firm to be formally approved under Part 4 of the SRA Authorisation Rules 2011. Applying the conventional SRA regulatory approach would have meant that all KPMG partners, comprising over 600 individuals, would have required SRA approval, when in reality only a limited number would have any direct influence or control over the firms proposed SRA-regulated Legal Services business. After discussions with the SRA, it was ultimately agreed that only those non-legal professional partners with direct influence and control required approval (initially circa 23).

KPMG’s licence as an MDP was granted and became effective on 1 October 2014 with a number of waivers granted. One waiver relates to indemnity insurance and was granted on the basis of the insurance arrangements already in place at the time, subject to the condition that any material change be approved by the SRA. Another waiver was granted in relation to the SRA Compensation Fund Rules, provided that KPMG does not hold client money in relation to any SRA-regulated activity.

There are some continuing difficulties in respect of non-practising solicitors providing unreserved legal services (such as tax or forensics) under the oversight of non-solicitor partners in other parts of the organisation. Within KPMG, such individuals have had to either come off the roll of solicitors or gain a practising certificate. Also, there had been uncertainty over whether the “multidisciplinary” engagement letter and whether the £3m minimum liability cap applies to non-legal and legal services, although this has been resolved after discussions with the SRA. Training and ongoing monitoring is required regarding legal advice, privilege, conflicts of interest and confidentiality.

Aside from the global accountancy practices, there are instances of other providers of professional services seeking authorisation as ABSs in order to provide an add-on service to the core services of the business. ABS status allows such businesses to employ solicitors to provide reserved and non-reserved activities to their clients, instead of having to refer their clients on to an external firm of solicitors. At present, ABS status represents the only possibility for such firms to retain such business and provide a full service to clients.

Case example: LCM Wealth Management

LCM Wealth Management was an existing provider of financial services, authorised and regulated by the FCA, which was authorised as an ABS in October 2016. This authorisation was made on condition that the firm informs the SRA as soon as reasonably practicable in the event of it or any part of its business ceasing to be regulated by the FCA; and/or becoming the subject of any regulatory proceedings or sanctions by the FCA or any other regulator.

LCM Wealth Management is a Multi-Family Office providing financial services for families, including tax management, wealth management, retirement and pensions advice, investment advice and management, and succession planning. Previously, if clients needed any legal advice or services, they had to be referred to a law firm (or to the clients' own solicitors, if they had them). The law firm would then have to undertake various checks and other compliance requirements, including identity checks (typically, this might be necessary for 20-30 family members) and a new client care letter and communicate with the client in order to retake instructions before they could even start providing the legal service required.

However, engaging a separate law firm was not always the most cost-effective or time-effective option for clients and limited the service that LCM Wealth Management could offer its clients. By gaining ABS status, the firm has been able to provide a further choice to its clients by employing solicitors to provide reserved and non-reserved activities to its existing clients. Many of the specific legal tasks can be fairly basic non-contentious services, such as the simple transfer of properties, preparation of wills, tenancy agreements, gifts of property between family members, deeds of appointment for trusts or deeds appointing new or retiring trustees and transferring private company shares gifted to family members.

The firm reports that ABS status enables it to offer these additional services to clients of its core business, so clients get a comprehensive service and do not always need to go to entirely different solicitors firm. Clients can save time and money on these legal services, which are often covered by a retainer or provided at low additional cost. Indeed, many of these tasks can be performed by the in-house solicitor in fewer hours than an external firm. A separate law firm would have to open a new client file, nominate a partner, etc. Where clients place a high emphasis on trust and personal relationships, which takes time to establish, they can particularly value the option now available to them, rather than having to appoint a separate law firm. The firm continues to work with the clients' existing solicitors, whenever this is appropriate and in the best interest of its clients.

These ABSs have tended to remain niche players to date, providing a relatively narrow range of services and not competing head-to-head with traditional law firms; most business still comes from clients referred by the main business. Some of these ABSs are now starting to sell their services to their own new clients, although only gradually.

Services cannot be completely integrated: clients still need to give separate express authorisation to use the legal services business and the firms need to use separate customer relationship management systems.

There is some potential overlap with accountants, as the ICAEW is now an approved regulator and licensing authority for (non-contentious) probate services; some accountants can instruct Counsel direct, rather than via a solicitor under the 'Licensed Access Scheme. There is also a risk of overlap with FCA, e.g. regarding tax advice.

4.3 Effects on consumers

As with ABSs, the MDP reform is "upstream" of consumers and most effects on consumers will therefore be indirect. The scope of the research did not extend to consulting clients of MDPs and so the main sources of evidence of effects on consumers are the consultations of stakeholders and firms and the desk research.

The research has identified no evidence that the introduction of MDPs, as well as the revision of the Separate Business Rule, have had adverse effects on consumers. The data on misconduct are not disaggregated for MDPs and non-MDPs. However, it is reasonable to assume that MDPs pose no greater risks to consumers than do other ABSs or, indeed, other solicitors' firms.

As noted above, clients of accountancy firms and other professional services providers are benefiting from a more integrated service offer, as they do not need to engage a law firm separately. The licensing of MDPs is also reducing the costs faced by some consumers in accessing certain legal services alongside other professional services. These are often businesses or relatively affluent consumers who would typically not "go without" but would usually absorb the higher price.

There is a strong case for saying that MDPs, if overseen by other regulators, offer as much, if not more, protection for consumers as traditional law firms. In the case of accountancy firms, the parts of the business not regulated by the SRA are typically subject to the oversight of other regulatory bodies, such as the FCA or the ICAEW. This means that such firms usually have rigorous systems in place to protect clients, as well as the necessary expertise and a culture of responsibility to clients. Such firms could be offered as instances where "individuals, systems and cultures combine to reduce ethical risk".⁶⁹

The consultation of small business consumers highlights their need to access a range of professional services at the time of establishing their businesses. Given their limited resources at that time, the SME consumers reported that they would have benefited from the type of integrated service provision offered by MDPs. Some have benefited from legal services offered by their bank as part of the support for new start-ups (albeit provided by a separate legal firm recommended by the bank). Others suggested that it would have been useful to have legal services provided by professional service providers that they were already in contact with, e.g. accountancy firms.

⁶⁹ Moorhead et al. (2016), Mapping the Moral Compass, University College London.

5. Reform of the Separate Business Rule

5.1 The reform

The SRA defines a “separate business” as “a business, wherever situated, that is not authorised by the SRA or any other approved regulator under the Legal Services Act 2007, but which has certain defined links to an SRA authorised person (body or individual). These links are that the SRA authorised person owns, is owned by, is connected to, or actively participates in, the separate business.”⁷⁰

The SRA regulates the links that people or entities authorised by the SRA (such as solicitors' firms, ABSs, or individual solicitors) have with the separate business. Under the Separate Business Rule, people or entities authorised by the SRA were forbidden from having links to separate businesses that specialise in providing non-reserved legal activities (such as drawing up wills, carrying out estate administration or providing general legal advice) or that purport to provide reserved legal services.

The SBR was intended to:

- ensure that members of the public are not confused or misled into believing that a separate business is regulated by the SRA or another approved regulator when it is not;
- ensure that the protections afforded to the clients of practising lawyers are in place in relation to certain legal services; and
- prevent an SRA authorised person from splitting part of a case with the separate business in such a way that the client loses statutory protection.

In 2015, the SRA revised the rule which had prohibited links with separate businesses that provide non-reserved legal activities that are not subject to any form of legal regulation, such as will-writing, some aspects of employment law and provision of legal advice. Solicitors are now permitted to own and manage legal services firms that are not authorised and regulated by the SRA. The rationale for this reform was to: help level the playing field between traditional solicitors, ABSs and unregulated service providers; formalise what is being implemented by waivers in a significant number of cases; and align the SRA with the approach taken by other legal services regulators and with developments in the market.

Around the same time, the SRA also expanded the range of professional services that could be carried out within traditional solicitor's firms to include professional and specialist support services to business. These include human resources, recruitment, systems support, outsourcing, transcription and translating, and accountancy. The rationale for this reform was to allow traditional solicitor's firms to provide a wider range of services and compete with ABSs. In that way, it complemented the reform of the SBR.

Appropriate safeguards have been maintained (via new outcomes) to address the risk of consumer harm. These include:

- ensuring that clients are clear about the extent to which the services offered by the SRA-authorised firm and the separate business offer are regulated;
- ensuring that separate businesses do not present themselves as being regulated by the SRA or any of their activities as being carried on by an individual who is regulated by the SRA; and
- allowing solicitors to refer a client to the separate business only when it is in the client's best

⁷⁰ <https://www.sra.org.uk/sra/consultations/separate-business-rule.page>

interests and when the client has given informed consent to the referral and has been informed of the connection with the separate businesses.

Prior to the reform, the SRA held a public consultation and then published an analysis of responses.⁷¹ According to this analysis, the responses to the consultation were largely supportive of the proposals to remove the general prohibition on links with separate businesses. However, some respondents were opposed in principle to the proposals on the basis that: the market analysis carried out by the SRA is insufficient and does not identify significant demand for the changes or that these would address areas in which there is unmet need for legal services; that, as a matter of principle, solicitors should be subject to the same regulatory regime and requirements for all of the work that they do; and that the growth of the market of unregulated legal services would lead to detriment for consumers (particularly vulnerable consumers) due to the SRA's inability to ensure good standards of practice and service. This last concern will be addressed by the proposed reform to allow solicitors to provide non-reserved activities in a non-LSA authorised provider. The interviews of firms also show that there is some demand for this reform, as discussed next.

5.2 Profile of firms with a separate business

Research by the SRA offers the following profile of firms with a separate business (based on annual renewal application data):

- 236 firms with links to separate businesses
- Of these, 84 (36%) were ABSs, whilst ABSs account for only 6% of firms regulated by the SRA
- Medium to large firms are more likely to have a separate business
- Firms with a separate business mostly specialise in litigation/alternative dispute resolution (32%), corporate/financial/intellectual property (15%) and private client (12%) or in no particular area (31%)
- Firms with a separate business are more likely to be a company limited by shares or LLP, receive referral fees up to £1m p.a., have medium to very large turnover and be a newly-formed firm or have recently changed constitution type.⁷²

5.3 Effects of the reform

Since the SBR was only revised in 2015, the full effects of this reform have not yet manifested themselves. However, the interviews provided qualitative evidence of the types of effects that have emerged to date. Some quantitative data was also available regarding reported allegations of misconduct.

The revision of the SBR has facilitated the entry of new providers into the market showing that there is demand for this reform. This includes instances where owners of alternative providers of legal services have set up ABSs that are authorised and regulated by the SRA. For example, one entrant, PDC Law, is owned by an individual that also owns an existing business which already provided (non-reserved) general legal advice as part of its property debt collection service.

⁷¹ <https://www.sra.org.uk/sra/consultations/separate-business-rule.page>

⁷² SRA (2017), Data analysis of firms who have a separate business

Case example: PDC Law

Property Debt Collection (PDC) is a debt collection company established in 1993 to provide a service for Managing Agents and Landlords. It collects around 15-20,000 debts per year mostly on behalf of landlords. Much of the operation is automated or administrative, e.g. involving sending standard letters to debtors. It has 20 staff including one director/shareholder, two associate directors and three managers. PDC is regulated by the Financial Conduct Authority.

The owner of PDC established a new firm, PDC Law, which gained authorisation as an ABS on 28/7/2016. Prior to the ABS, if PDC could not recover debts, then it would advise clients to instruct a solicitor to take the necessary legal steps. Whilst only the client could instruct a solicitor, PDC would refer clients to a panel of solicitors. This represented a loss of potential revenue to PDC. It also posed the risk that the solicitors might choose not to accept instructions from PDC's clients or might cease trading. This was recognised as a high risk to PDC's operations. PDC Law was therefore established to provide legal services for clients of PDC.

Although both companies are separate legal entities, most clients accept the recommendation to use PDC Law. Most are sizeable property management companies and therefore use both PDC and PDC Law on a regular basis. Clients mostly require litigation services (e.g. enforcing judgements, applications to first tier tribunals, county court actions, possession claims), although PDC Law is increasingly offering other services, such as enfranchisement and lease extensions, as well as legal services related to debt recovery, such as letters to debtors. The majority of PDC Law clients are direct referrals from PDC, although PDC Law has attracted a few clients directly.

The revision of the SBR has enabled greater diversity in business models and ownership, again showing that there is demand for this reform. For example, the reform has enabled Gateley plc (the UK's first commercial law firm to become a publicly-quoted company admitted to trading on the AIM market of the London Stock Exchange) to own a solicitors' firm authorised and regulated by the SRA, as well as unregulated businesses that provide non-reserved legal activities. This structure would not have been possible without the revision of the SBR. Similarly, the SBR reform has greatly facilitated the entry of global accountancy practices into the legal services market, as such firms usually own or are connected to "separate businesses" that provide non-reserved legal activities. In these cases, the risk to the consumer could be assumed to be minimal, as the other parts of the global accountancy practice are very often subject to other regulatory regimes, such as the Association of Chartered Certified Accountants (ACCA) or the Financial Conduct Authority (FCA).

The evidence to date does not suggest that firms with a separate business ("SB firms") cause a significantly greater risk to consumers due to misconduct. Data from the SRA shows that a reported matter is less likely to be assessed as "red" when it is reported against SB firms compared to other firms. There is little difference in the reasons for reported matters against SB firms compared to other firms. Reported matters against SB firms are more likely to be closed without an investigation (52%) compared to other firms (43%). There is no significant difference in the percentage of regulatory actions as a result of investigation decisions between medium to large SB firms and other medium to large firms. Outcomes, as well as actions of the investigations of the issues linked to misleading are consistent across SB firms and other firms.⁷³

There is no evidence that any the firms interviewed have split part of a case with the separate business in such a way that the client loses statutory protection. One firm, DAC Beachcroft, considered establishing a separate business to provide non-reserved activities related to high-volume insurance claims handling, such as steps prior to litigation. At that time, this was not possible

⁷³ SRA (2017), Data analysis of firms who have a separate business

under the SBR, so the firm decided to establish an ABS (DAC Beachcroft Claims Ltd) to provide reserved activities (mostly litigation) and non-reserved activities. The SBR was revised before the ABS was licensed. Ultimately, however, the firm decided for commercial reasons to retain non-reserved activities within the ABS, rather than establishing a separate business.

There are, examples of solicitors' firms (or partners thereof) setting up separate (unregulated) businesses specifically to provide non-reserved legal activities. Part of the rationale for setting up such businesses is to ensure that regulatory oversight by the SRA (and thus the associated regulatory burden) is not unnecessarily extended to such activities (although there is no suggestion that the ownership of these firms by solicitors has proved detrimental to consumers).

Case example: Freeths Solicitors

Partners within Freeths Solicitors have set up a separate business (outside of the regulatory oversight of the SRA) to provide certain non-reserved legal activities, namely insurance and other mediation services. Freeths also has a separate business to provide IT services for other firms of solicitors, which also involves non-reserved legal activities.

Case example: Winn Group

Winn Group, the holding company that owns Winn Solicitors, also owns two other companies that provide some non-reserved legal activities and to which Winn Solicitors might refer certain clients. They are: On Hire Limited, a nationwide supplier of replacement vehicles and repair management solutions to victims of road traffic accidents; and On Medical, a provider of independent medico-legal reports and rehabilitation services. However, in both cases, the non-reserved legal activities are not the primary service offered to consumers. In neither case does the company website suggest that the firm is regulated by the SRA or that consumers will be served by solicitors or other individuals authorised by the SRA. In the case of On Medical, staff include physiotherapists regulated by the Health and Care Professions Council, which thus provides certain protections for consumers.

In these instances, consumer protection might be strengthened by the proposed Looking to the Future reforms. Solicitors would be able not only to own an alternative provider but also to provide non-reserved legal activities through such a provider. This would offer greater protection than in cases where a non-solicitor provides the same (non-reserved) services through the same firm (owned by a solicitor). In the meantime, the SRA will need to remain alert to the risk of the members of the public being confused or misled into believing that a separate business is regulated by the SRA or another approved regulator when it is not. The relevant safeguards will remain necessary to ensure that clients are clear about the extent to which the services that the SRA-authorised firm and the separate business offer are regulated.

The firms interviewed that have benefitted from the SBR are mostly serving clients that were already accessing (or would have accessed) legal services rather than meeting unmet need. For example, MDPs are now providing reserved legal activities in-house rather than referring their clients to external solicitors' firms.

6. Other SRA initiatives

The regulatory reforms have been complemented by other initiatives to reduce the administrative burden on firms. Some of the firms and stakeholders interviewed stated an opinion regarding the desirability of the initiatives (e.g. changes to the Handbook, changes to accounts rules) and a few pointed to changes in their behaviour or to direct effects on their firms. The findings here reflect the views expressed rather than an assessment of impact.

6.1 Changes to the Handbook

On 6 April 2011, the SRA published its Handbook on its website. The SRA Handbook sets out the standards and requirements they expect their regulated community to achieve and observe, for the benefit of the clients they serve and in the public interest. It includes key regulatory elements, notably: principles, code of conduct, accounts rules, authorisation and practising requirements, rules on client protection, provisions on discipline and costs recovery, overseas rules and provisions on specialist services. Version 1 of the Handbook came into force on 6 October 2011. Since then, another seventeen versions have been released, the most recent of which was released on 1 November 2016. Taken together, these revisions have reduced the length of the Handbook by from about 600 pages to 400 pages.

The SRA has analysed visits to the Handbook section of its website to gauge frequency of use. Between October 2014 and September 2015, there were more than 400,000 visitors who made more than 700,000 visits to the Handbook page. On average, users made 1.6 visits to the Handbook page.⁷⁴

Each version of the Handbook has featured revisions on average to around two of the Code's fifteen chapters. The SRA estimates that if around 5,000 solicitors on average read each update this would equate to a cost of around £0.2m-£0.6m in time spent, based on a notional wage rate of £30/hr.⁷⁵

On 1 June 2016, the SRA published a paper: "Looking to the Future - flexibility and public protection" for a consultation which closed on 21 September 2016. This included a phased review of the SRA Handbook and the SRA's regulatory approach: Principles, Code of Conduct and Practice Framework Rules. The new combined firm and individual codes will have a word-count that is one-third that of the current code. The SRA has undertaken an initial analysis of responses and will publish its final analysis later in 2017. Based on the reduced word-count, the SRA estimates that each reader will save between 30 minutes and nearly two hours in reading the Handbook just once. This would equate to total savings across the profession of 150k-£500k.⁷⁶

The interviewees were invited to comment on the effects of the previous reforms and the likely effects of the future reforms on their firm. In general, they tended to "rehearse" the views already expressed by respondents to the SRA consultations and others. Whilst all consultees agreed with the objective of simplifying the Handbook and removing unnecessary text, there was a divergence of views as to the desirability and likely effects of the change. Some were in favour of the outcomes-based approach, provided that the SRA makes proper use of its discretion and takes an approach that is proportionate, pragmatic and focussed on clients' interests. Others, perhaps in the majority, favoured more detail; one mentioned the risk of unnecessary divergence in approaches to compliance. A few mentioned that, in practice, they referred to the 2007 Handbook or to common law when detailed guidance on specific issues was required.

⁷⁴ SRA (2017), Impact Assessment

⁷⁵ SRA (2017), Impact Assessment

⁷⁶ SRA (2017), Impact Assessment

Case example

One London-based LLP with 30 members of staff (of which five partners and three other solicitors) reported that one of the partners is a full-time manager of the business, which includes fulfilling the COLP role. Each time the Handbook is reformed, the COLP updates the office manual, which requires all references to be updated. Each mandatory outcome in the Handbook is mirrored in the firm's processes and procedures, with guidance on how to implement it. This requires training of staff, which requires a significant commitment of time and resources. Each month, the COLP follows a series of routines to ensure that the firm complies with all the requirements of the Handbook and specifically the Code of Conduct. Staff are monitored to ensure their compliance with all the requirements of the Handbook. With the reform of the Handbook, the firm expects to have to organise two half-day training sessions in order to make the staff familiar with the reforms and the new requirements that they face. This would be complemented by regular updates by email and ongoing support and monitoring by the COLP. The firm believes that the simplifications introduced to date have been essential and believes that a small firm without a full-time manager/COLP officer would struggle to implement all the detailed requirements that were in previous versions of the Handbook. Regarding the outcomes-based approach, the firm reports that it already has the procedures in place and will therefore not be adversely affected.

Some of the other comments expressed were as follows:

- “The SRA needs to restructure the Code into a sensible structure; the current structure requires the reader to jump from one part to another, in part due to the various references to different pieces of legislation and to principles.”
- “Chapter 7 of the Code of Conduct specifies mandatory outcomes in relation to the management of the business. Firms are free to determine how they achieve these outcomes. To a certain extent, this repeats what is in the Handbook (e.g. Rule 8.2, which requires firms to have suitable arrangements for compliance) but without the detail, such as the need to have a system for ensuring that undertakings are given only when intended and compliance with them is monitored and enforced (Rule 8 Guidance Notes).”
- “Separation of the codes of conduct is confusing and not necessary if the aim is to allow unregulated providers to operate.”
- “Uncertainty over how the separate Codes of Conduct will work; we rely on the solicitors to comply with the codes, so we tell them to achieve the outcomes.”
- “Separate codes: we will apply with them whatever they are; the key is public confidence.”
- “No problem with separate codes: the same rules will apply because you are a solicitor; you have to maintain the trust of the public, put clients’ interests above your own and allow them to talk to you in confidence.”
- “Uncertainty over how the support staff (non-lawyers) would be covered by the separate Codes.”
- “Concerns that clients will be confused and assume that certain protections are in place when using a solicitor providing unreserved activities in an unregulated firm.”
- “We’re supportive of freeing up solicitors to provide unreserved legal activities outside of regulated firms, as unregulated providers are already providing such services.”
- “We’re unsure of the benefit to consumers or freeing up solicitors to provide unreserved legal activities in unregulated firms. Regulation does not affect the ability to provide services.”

- “Regulated firms could be disadvantaged compared to an unregulated firm employing a solicitor.”
- “Risk of actions of commercial businesses conflicting with acts of compliance that individual solicitors are required to undertake.”
- “There is a risk of moving from a prescriptive approach to an outcomes-based approach. Some of the Code needs to be prescriptive, otherwise solicitors will merely refer back to the detail in the 2007 Handbook.”
- “Deregulation, by reducing costs and therefore increasing consumers’ access, can help address the reductions in legal aid. However, it is important to retain clarity over who is regulated and what protections and insurance are in place.”

6.2 Support for small firms

The SRA defines a small firm as a sole practitioner or a firm with no more than four partners, members or directors, which has an annual turnover of no more than £400,000.⁷⁷ To support such firms, the SRA has established a Small Firms Supervision Group, so that firms with a regulatory issue can discuss it with the SRA and get help. Information and guidance is also provided via a dedicated section on the SRA website. None of the firms interviewed were able to offer a view on the utility of such support.

6.3 SRA Innovate

SRA Innovate: provides two main forms of support:

- “Soft” support in the form of information on the website and conferences for firms considering innovation. Such support can be helpful but by itself may be insufficient. One attendee at a conference pointed out that he, like other innovators, would be unwilling to share his ideas for innovation with a wider audience, where those ideas had a potential commercial value.
- In-depth support for firms, including waivers for certain regulatory requirements combined with greater supervision; around five firms are currently supported in this way (though none were interviewed as part of the study). A few of the firms interviewed for this study supported the principle of “safe spaces” to innovate, which allowed waivers for innovative firms (with appropriate regulatory supervision).

Anecdotal evidence from this study suggests that some of the most important innovations might relate to activities that are not subject to SRA regulatory oversight. For example, the CMA report highlights the importance of facilitating the development of digital comparison tools. Other innovations might relate to increased provision of (unreserved) “DIY” legal services accessible online.

6.4 Changes to Accounts Rules

The SRA’s regulatory reform programme includes a review of the SRA Accounts Rules 2011 which govern the handling of client money by solicitors. The purpose of the Accounts Rules is to ensure that money belonging to clients is kept safe. The reform programme aims to remove any unnecessary restrictions, prescription and detail while, at the same time, maintaining appropriate consumer protections.

A minor revision to the Accounts Rules was made in 2011. This removed the requirement for firms to enter into a written agreement with the bank or building society before opening a client account

⁷⁷ <https://www.sra.org.uk/solicitors/small-firms.page>

acknowledging that the account will hold client money, and that the bank or building society shall not have any recourse or right against the money standing to its credit in respect of any liability of the licensed body to the bank or building society, other than a liability in connection with the account. (Removed in Version 2, 23 December 2011.)

Phase One of the review then made minor changes to the format of the annual accountant's report that firms were required to obtain. The SRA also removed the requirement for firms who hold client money to submit an accountant's report to the SRA, unless the report is qualified, in which case it must be delivered to the SRA within six months of the end of the accounting period. (Revised in Version 12, 31 October 2014.)

Phase Two of the review encouraged reporting accountants to apply an outcomes-based approach to assessing compliance, with a greater focus on risks to client money. The SRA also removed the requirement for firms to obtain an accountant's report, provided that all of the client money held is money held or received from the Legal Aid Agency or if the average balance of client money is under £10,000 and the maximum balance is below £250,000. (Revised in Version 15, 1 November 2015.)

Phase Three of the review was subject to a consultation, which ran alongside the consultation on flexibility and public protection, both of which closed on 21 September 2016. This phase made proposals for broader change, namely:

- Simplifying the Accounts Rules by focusing on key principles and requirements for keeping client money safe;
- Changing the definition of client money to allow money paid for all fees and disbursements for which the solicitor is liable (for example counsel fees) to be treated as the firm's money;
- Providing an alternative to the holding of client money: through the introduction of clear and consistent safeguards around the use of third party managed accounts (TPMA) as a mechanism for managing payments and transactions.

Amongst the firms interviewed, there was a consensus that the Phase One and Phase Two changes had been necessary and that the effects had been positive. No firms disagreed, although some interviewees had no opinion either because they were unaware of the change (i.e. the interviewee was not the COFA), the firm did not hold client money or the firm was new and had not yet had to obtain an accountant's report. Some of the accountancy firms interviewed (authorised by the SRA as multi-disciplinary practices) do not hold client money for regulatory reasons related to their role as auditors. For one of the global accountancy firms, this was in part because of the strict rules of the U.S. Securities and Exchange Commission regarding the independence of auditors.

There was a consensus about the need to maintain current regulatory requirements around accounting for and proper handling of client money, even if the relaxation of the rule on reporting was welcomed. Some firms reported that the reform had reduced the administrative burden by enabling the auditor to focus on material items rather than minor issues and also to use their discretion and professional judgement. One interviewee reported that, as a result, the accountant's report was now better aligned with the firm's financial processes. For other firms, particularly larger ones, the previous reporting requirements had not been particularly onerous and could be incorporated into their routine audit and accounting processes. One interviewee expressed the view that submission of the accountant's report was of little value, except that non-submission of a report triggers an investigation by the SRA. Another interviewee stated that the substance of the previous rule had not caused the firm any problems but had been articulated in a way that was unclear; the current rule offered much more clarity. However, one interviewee did highlight the importance of the SRA providing appropriate guidance for accountants regarding the Accounts Rule in order to reduce the potential for ambiguity.

7. Conclusions and recommendations

7.1 Conclusions

This study has taken a wide-ranging look at recent reforms and other initiatives introduced by the SRA. It has gathered evidence from previous studies and other literature, data provided by the SRA, interviews of stakeholders and firms and focus groups involving consumers and law firms. It has allowed us to identify general trends and to look at a number of firms that have converted to ABS status or that are considering doing so. Of course, the full impacts of the reforms will not be visible for some time. However, the analysis of the (mostly qualitative) evidence allows us to draw some conclusions about the initial impacts of the reforms and of the other initiatives, as well as the general direction of travel.

Although significant in their own right, the impact of the reforms on the overall market for legal services is likely to be overshadowed by bigger drivers of change, at least in the short-term. These include, in particular, the reduction in legal aid resulting from the LASPO reform, regulatory review of personal injury compensation and new uses of technology. There was a consensus amongst the stakeholders and firms interviewed that these drivers create more opportunities and challenges for providers and consumers than the SRA's reforms.

The reforms have demonstrated that there was demand for the revision of restrictions on the ownership of law firms. Around 7% of all law firms are now ABSs that can be owned by non-solicitors and that proportion is expected to grow. The reforms have contributed to diversifying the ownership of law firms with many firms now owned by foreign law firms, local authorities, trade unions or other professionals. Some existing law firms have welcomed the opportunity to extend ownership to valued non-lawyer employees.

The reforms have stimulated a gradual evolution rather than a sudden disruption in the legal services market. For many existing law firms, conversion to ABS has meant “business as usual”, except that some non-lawyer employees have now been brought into the partnership or allowed to own shares. Some retail brands have entered the market but, overall, these have been fewer than expected, their influence has been less than expected and some have ceased trading; (positive and negative) expectations related to “Tesco Law” have not been fulfilled.

The reforms have enabled more comprehensive service offers to clients, such as combining legal services with other professional services (e.g. accountancy) or combining car repair, car hire and medical services with insurance claims. Clients of accountancy firms and other professional services providers are benefiting from a more integrated service offer, as they do not need to engage a law firm separately. This can reduce the cost of some legal services, particularly basic non-contentious services where the in-house solicitor can complete the work without having to rely on an external firm. Where clients wish to establish a long-term relationship based on trust and personal connection (and would thus prefer to use a single provider of professional services), they also benefit from the opportunities offered by MDPs. The revision of the SBR also allows a more joined-up service for clients where a law firm and another professional services provider come under the same ownership (even though the two firms are separate legal entities and clients still have to engage the law firm separately).

It may be more common for other professions to expand into legal services rather than vice versa. None of the firms interviewed were law firms that had expanded into the provision of accountancy services. There may be barriers to the employment of other professionals, such as surveyors, within ABSs regulated by the SRA. This issue merits exploration, in order to improve opportunities for law firms to provide a better service to consumers and enjoy increased growth and profitability.

Consumers should benefit from the reforms. Little, if any, evidence has emerged of the reforms causing increased harm to consumers. Of course, the full effects of the reforms will only become evident over the next few years. Most stakeholders and firms interviewed expect impacts to be significant in long run. However, SRA data on misconduct does not suggest that ABSs pose greater risks to consumers than other firms regarding the extent and nature of misconduct. Moreover, the fact that many ABSs are subject to other regulatory regimes would tend to limit risks to consumers. Such firms also have rigorous systems in place to protect clients, as well as the necessary expertise and a culture of responsibility to clients. Some ABSs appear to be more accountable to their clients than traditional law firms, where those firms are, in effect, owned by their clients. They include ABSs owned by co-operatives and trade unions and whose clients are members of those bodies. They also include ABSs established and owned by the local authorities that they serve. Being publicly-owned, such ABSs are also subject to democratic oversight and have to demonstrate high levels of transparency and accountability.

The reforms have contributed to innovation in the legal services market. The reforms are not the main drivers of innovation, although there is evidence that a higher proportion of ABSs are introducing new innovations in strategy, organisation, service delivery, management or marketing. However, firms' motivation for conversion to ABS status rarely relates to innovation and many traditional law firms do not consider that regulations prevent them from innovating. Instead, firms are more likely to innovate in response to the new opportunities offered by technology, changing consumer behaviour or out of necessity, e.g. the need to respond to the cuts to legal aid. Some of the more important innovations come from bodies not regulated by the SRA rather than ABSs or traditional law firms, including unregulated on-line legal services, digital comparison tools and other online tools.

There is evidence to suggest that the reforms have supported new investments in the legal services market. Law firms wishing to expand can now do so with the support of an external investor. Foreign firms have invested in UK firms. Solicitors wishing to extract value from their businesses can do so more easily, as a result of the easing of restrictions on ownership. Investments offer the potential to improve and expand services for the benefit of consumers (due to lower cost and/or improved quality). Conversion to ABS status also opens the door to future changes to ownership, including through flotation. However, as in any sector, not all investments are profitable and some fail to deliver the expected return or even cause a loss. This is not a failure of the regulation or a reflection on ABSs, merely the manifestation of the "usual" risks associated with any business investment.

The reforms are leading to improvements in the commercial management of law firms. One of the main drivers of conversion to ABS status has been to allow non-lawyers to own and manage law firms. Some of the firms interviewed report that the promotion and retention of finance directors or corporate managers offers the potential to improve the management of the firm. In other cases, external investors in law firms offer not only financial investment but management expertise and financial acumen. This also offers the potential to improve the commercial operations of the firm, provided that such individuals have, or can gain, a good understanding of running a law firm. In the case of MDPs, there is also the challenge of co-ordinating the provision of financial and legal services, which may prove difficult, given the different regulatory requirements.

There is some evidence that the reforms may be aiding consolidation in some parts of the legal services market. By easing restrictions on ownership, the reforms have facilitated mergers and acquisitions including by new entrants and external investors. This is potentially leading to a concentration of ownership and consolidation in parts of the market, such as personal injury. Consolidation has the potential either to increase economies of scale and reduce prices charged to consumers or to reduce competition. More research is needed to determine the full effects.

The transition between the statutory regimes for ABSs and for traditional law firms has been facilitated both in terms of the regulatory requirements and the process of transition. Some 700 firms have been authorised as ABSs, of which many were existing law firms. Moreover, data from the SRA demonstrates that the time taken to convert has reduced, whilst interviews of firms suggests that the process has become smoother and that firms are generally well-supported to make the transition.

In some cases, traditional law firms may have lost market share to new ABSs or to existing firms that have converted to ABS status. For example, there are instances of solicitor firms that previously received referrals from non-solicitors (e.g. accountants, financial service providers, debt collection firms) that are now losing out because the non-solicitors have either become MDPs (and thus keep the work in-house) or have set up new ABSs (to which they refer their clients).

In some parts of the market, there has (as yet) been little loss of market share from traditional firms to ABSs, particularly where it is difficult to compete on price, such as where there are call-off contracts with low rates. Many large corporate clients are not switching to flexible services based on freelance lawyers, such as Lawyers on Demand.⁷⁸ MDPs are increasing their provision of legal services as part of their wider offer, but are tending not to compete “head to head” with existing law firms. Their priority has been to widen their service offer to existing clients and reduce the need to refer own clients to other solicitor firms. However, once established, it would be expected that MDPs might market themselves more actively as legal services providers.

Some anomalies remain in the provision of legal services. Solicitors and solicitors’ firms are now able to own unregulated alternative providers of non-reserved activities. However, they are unable to provide the non-reserved activities themselves but must instead rely on individuals that are unauthorised by the SRA and are not required to comply with the Code of Conduct.

The reforms have not had much effect on EDI and offer only modest potential for positive EDI impacts; other factors are more important. Large accountancy practices, insurance companies and retail firms might offer the potential for the recruitment of a more diverse workforce than traditional law firms, where they have a good track record. The full potential of ABSs to reach a wider and more diverse customer base has perhaps not been realised due to the relatively limited number of retail brands establishing ABS. Overall, the solicitors’ profession needs to make more/better progress on EDI both in terms of recruitment and progression and in terms of serving consumers. But the bigger drivers of EDI in respect of serving consumers relate to the overall accessibility of legal services, rather than to the specific reforms covered by this study. Other reforms are likely to diversify recruitment into the profession, such as the proposed new Solicitors Qualifying Examination.

7.2 Recommendations

The conclusions noted above will inform the development of the evaluation framework against which to assess the impact of future regulatory reforms, which forms Part II of this study.

In addition, based on the conclusions, we offer some recommendations for the SRA.

- Undertake more comprehensive research into all ABSs to determine the short-term effects of conversion for the firms. In time, undertake more comprehensive research to identify the long-term effects on providers, consumers and the market in general.
- Undertake further research to identify: (i) the extent to which existing lawyer firms have converted to MDP status and started to provide other professional services; (ii) successful examples of such conversions; (iii) the barriers to such conversions; and (iv) further actions that

⁷⁸ <https://www.lodlaw.com/>

are required to overcome such barriers.

- Future editions of the SRA reports on “Workforce data for solicitors’ firms” could provide breakdowns between ABSs and other law firms in order to help evaluate the EDI impacts of reforms.
- Establish a monitoring framework for the firms receiving waivers as part of SRA Innovate in order to gather data on actions taken and effects arising.
- Review the drivers of the reforms in this report and the outcomes to date for any light this might shed on the issue of allowing solicitors to deliver unreserved activities through unregulated legal entities.

8. Annexes

8.1 Annex One: Stakeholders and providers consulted

Stakeholders and providers consulted
SRA
Crispin Passmore, Executive Director of Policy and Education
Chris Handford, Director of Regulatory Policy
Julie Brannan, Director of Education and Training
Patrick Reeve, Policy Consultant
Emma Tunley, Policy Manager
Amanda Fox, Policy Associate
Other stakeholders
Legal Services Consumer Panel
Sole Practitioners Group
Legal services providers
Anthony Collins LLP
Bevan Brittan LLP
Bizlaw UK Ltd
Brightstone Law LLP
DAC Beachcroft LLP
Eagles Solicitors
England Kerr Hands Solicitors Ltd
Ernst & Young LLP
Freeths LLP
Gateley plc
KPMG LLP
Lawyer Checker Ltd / Practical Vision Ltd
LCM Wealth Management Ltd

Stakeholders and providers consulted
LGSS Law Ltd
Minster Law Ltd
PDC Law Ltd
Price Bailey Legal Services LLP
Ridouts Professional Services plc
Rocket Lawyer UK Ltd
Sarah Mumford
Slater and Gordon LLP
Winn Solicitors Ltd
WLS Solicitors Ltd

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