

SRA Consultation Alert – Legal Services Act

Draft SRA (Cost of Investigations) Regulations

Response of Birmingham Law Society

1. Are the draft Regulations clear and transparent?

Yes

2. Do you believe that the draft Regulations will have a disproportionate impact on any group or category of persons?

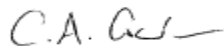
No

3. Do you have any other comments on the draft Regulations?

The draft Regulations give the SRA unilateral power to recover the costs of an investigation. We appreciate that the SRA presently operates the same system and that the Regulations are only intended to put the current charging policy into the form of regulations. However, there is no provision in the draft Regulations for the paying party to challenge the amount of the costs such as the hourly rate or the work carried out. A paying party should be able to challenge the costs on the basis that they were unnecessary or that too much time was spent on a particular matter. There is no power akin to a detailed assessment in civil litigation proceedings. For example, there is a fixed charge of £1,350 for investigations of between 8 and 16 hours and an additional charge of £75 per hour for time spent in excess of 16 hours. Whilst one can appreciate the need for simplicity the Regulations permit a discretionary power that cannot be challenged. This must be regarded as unfair and arbitrary.

Further, there is no control over the time recording by employees. They merely record all the time spent on a particular matter and the paying party is then required to pay regardless of the time spent or the reasonableness of it. There is no supervision by senior staff within the SRA of the time spent by individual employees.

In conclusion, scrutiny and appeal procedures are necessary to avoid unfairness.



Caroline Coates

President

Birmingham Law Society

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