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Will scrapping CPD requirement reduce the quality of lawyers?

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Practice Compliance analysis: The Solicitors Regulation Authority (SRA) has pledged to scrap its requirement for solicitors to complete 16 hours of continuing professional development (CPD), describing its existing system as little more than a 'box ticking' exercise. The SRA believes revoking the current system will provide greater flexibility, but Nicholas Lakeland, partner and head of the employment and pensions team at Silverman Sherliker LLP, fears it may well lead to a real reduction in training.

What effect have the changes to the CPD requirements had in practice?

Nothing has happened yet, because the new regime is going to be phased in slowly. Those who are in charge of training are, however, having to consider what might be appropriate for the future. I'm aware that at least one training provider has ceased trading, so I suspect the market place is in fact expecting a contraction in the demand for training to lawyers.

How have the changes impacted lawyers? Have there been any visible benefits to the changes?

So far, nothing much has happened, so there has been no real impact. Flexibility, I fear, in this context probably means being given the opportunity of doing less training. Those who want to benefit from training already have a vast array of products available to them online and live options, and generally lawyers have been able to tailor their needs to their own practice requirements. As for benefits, I have not yet seen any.

Are there any visible downsides to these changes?

Yes. With a less prescriptive regime, there is loss of certainty as to what is required and that potentially makes complying much harder because busy practitioners will have to spend more time considering what might be appropriate training for them--in real life, I doubt that will happen.

I also suspect that this is what will happen particularly among smaller firms where budgets are tight. Practice managers and finance partners will see this as a cost cutting opportunity, so there will be a real reduction on training. If the SRA really wants this to work they will need to monitor the level of training solicitors undertake much more closely than at the present time. However, I very much doubt they will have the resources to do so. Taking a straightforward regime and replacing it with this much less prescriptive system will, I fear, lead to a great deal of confusion and less training taking place as solicitors simply opt for doing as little as possible because 'it's all become too difficult'. After all, that is human nature.

What are the key concerns among regulators?

The regulators want to get away from the tick box mentality towards training and seek to focus lawyers on looking at their specific training needs. However, this could have readily been achieved by slightly modifying

the current regime. I very much doubt that, apart from the very sophisticated client organisations, there is any understanding by clients of the current regime or indeed the future one. Often clients understand only speed of response and the user friendliness of lawyers and do not have any way of readily judging whether the lawyer actually is doing a good technical job in dealing with the legal aspects of a file. How is the user of legal services able to judge whether they could have obtained a better outcome or result? Most clients simply will not know.

What should lawyers be aware of?

We need to consider the new regime with care and understand that, actually, if all that happens is that there is less training for lawyers, this can affect our performance and may make us less effective. Given that knowledge is what lawyers sell, training will eventually give the better trained solicitors a competitive advantage--short term attitudes to training will eventually lead to a disparity in the quality of advice.

Is this move by the SRA part of wider changes?

Yes, the impression I have is that the SRA, in spite of its words about improving quality, seems to me to be pressing towards less prescription in order to help reduce costs and encourage competition in the legal services market so as to give consumers greater choice and better value. Unfortunately, their methods are, in my view, not quite right. I don't think that the effect of the changes is likely to drive up standards, but rather it is more likely to level them down. I have not seen other professions and industries seeking to change their CPD regime and one has to ask, why not?

Furthermore, the lowest cost does not always give a buyer of legal services value for money. Clients often find that out too late in a transaction when they come to realise that you get what you pay for. Eventually, the market will self-correct, because those firms who see this as an opportunity to skimp on training will find themselves being put under greater scrutiny by their insurers--particularly if negligence and claims start landing on their doormats, the firm in question will find itself going out of business. I suspect the pendulum will eventually swing back towards a more prescriptive regime as a result of pressure from insurers.

Nicholas Lakeland is a partner and head of the employment and pensions team at Silverman Sherliker. His practice encompasses both contentious and non-contentious work, and he acts for both employers and employees. He regularly participates as a panel expert in LexisNexis CPD webinars and regularly comments in the media on employment law issues.

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