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Dear Mr Robb

Response to consultation paper on regulatory independence

We are a firm of solicitors regulated by the Solicitors Regulation Authority (**SRA**) and represented by the Law Society. We therefore can only comment on the impact that the consultation paper has on those bodies and the regulation of our profession. **Much of the consultation paper deals with internal arrangements between the Law Society and SRA and for the most part we do not propose, or feel able, to comment on those arrangements. We trust the Law Society is best placed to comment on those issues. We may be in a better position to comment in the future when the impact on the legal profession becomes clearer.**

We do, however, believe it necessary to comment on your Question 2 and the proposals set out in paragraph 3.15 of the consultation paper. **We do not think that lawyers should or need to be prevented from forming the majority of members of the SRA Board. This is not necessary to ensure regulatory independence or even to ensure perceived regulatory independence. Real, substantive independence should instead be achieved by effective internal governance under section 30 of the Legal Services Act 2007.**

The proposal to constitute the **SRA Board** with an in-built majority of non-lawyers is, in our view, based on the following misconceptions:

- it will ensure effective regulation of the legal profession;
- it will increase perceived levels of independence **without compromising actual independence;**
- lawyers are fundamentally 'representative' of the legal profession and their independence is compromised to such a degree that **they should not be responsible for the effective independent regulation of that profession.**

One cannot have effective regulation if a regulator is managed by people who are not part of the profession they regulate because these people will not have sufficient understanding of the issues affecting that profession. The only way to truly develop that understanding is if a person is, or has been, part of that profession. Putting non-lawyers in control of the regulation of lawyers increases the risk that issues affecting the profession will not be properly understood and therefore not effectively resolved.

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A dogma that the regulator is managed by a majority of non-lawyers is not necessary to ensure the confidence of the consumer. That depends on the quality and independence of the individual appointed and the quality of their decision. In fact a dogmatic approach may serve to polarise the minority and the profession.

Making non-lawyers responsible for the regulation of lawyers is also unlikely to lead to increased independence in any substantive sense. Non-lawyers will, by necessity, need to rely on the lawyers they regulate, and in particular the Law Society, to advise them on the demands and issues faced by the profession. This could have the effect of making the SRA more reliant on the profession, thereby bringing it closer to the representative arm of the profession, than would otherwise be the case if it was headed by lawyers who understood these issues but are independent-minded.

The assumption that members of the legal profession are fundamentally 'representative' by virtue of that membership fails to appreciate that the legal profession is very diverse and includes lawyers from a broad range of practices with **different types** of concerns, issues and interests. There is no one single, coherent body of ideas and interests that lawyers represent. This diversity will protect against any actual or perceived risk that the SRA will only make decisions which favour the legal profession's interests over those of the public.

We are not suggesting that non-lawyers should be excluded entirely from the Board of the SRA. The involvement of non-lawyers is an important way of ensuring that the regulation of the legal profession is perceived to be independent and in the public interest. However, the pursuit of that perceived independence should not be at the **expense** of effective regulation or have the practical effect of eroding that independence. For the reasons we have set out above, we believe that this would be the case if the Board of the SRA was constituted entirely, or even by a majority, of non-lawyers.

Yours sincerely,



Andrew Cheung
Director of Compliance

cc: Howard Morris – Chief Executive