

Mazur & Anor v Charles Russell Speechlys - Round Table

15 October 2025

Meeting commenced at 12.32.

67 participants

Arranged the call to discuss as a group. Keep to speaking in general terms, whatever said shouldn't be considered authoritative or amount to legal advice.

Current guidance SRA is 1 October, CiLEX – 8th October, Law Society – 30th September and LSB – 13th October. Law Society working on something but we don't know when it will arrive. CiLEX anticipates significant number of applications for additional qualification. Guidance so far has been very broad applying the *substance not form* approach adopted by the courts.

Everyone said "this is how it always has been" but the fact we have people on this call suggests there is something more at issue here which we need to work through. What should we be thinking about in relation to how we work currently, historically, and in the future.

We have heard anecdotally, some people have been let go as a result. One firm has already offered a service to look at obtaining fees back for clients. Advice to client, what do we say to client? What do we do about solicitors questioning costs and should we be querying costs incurred by other firms where the *conduct of litigation* was by an unauthorised individual.

Every now and again a legal case comes along which unsettles legal practice/- something new to worry about. What Mazur has told us? Enforces what is in the Legal Services Act, conducting litigation is a reserved activity, unauthorised person's supervisor be regulated. Being employed by a regulated firm doesn't make them automatically authorised.

Unauthorised individuals cannot *conduct* litigation, only *support* litigation. Difference between conducting litigation and supporting litigation is fact sensitive.

When is it engaged? Unauthorised person having conducted litigation or engaged in reserved activities set out in Legal Services Act. What does conducting litigation mean? It didn't address conducting/supporting dividing line, which is grey. Anything pre-action does not amount to conducting litigation, issuing proceedings does mean conducting litigation but the mechanical steps may not. Little guidance, firms doing best they can having regard to SRA supervision guidance note, person conducting litigation has day to day management of the matter, probably means high volume low value work most affected.

What are the consequences about getting it wrong?

1. Criminal consequences, person who conduct litigation may be liable to an offence, don't need to be unduly concerned, if a breach is reasonably inadvertant then defence. Designed to punish those who deliberately ignore LSA.
2. Regulatory consequences as breach may affect representation. Can't see them likely to be interested in the past least because SRA didn't seem interested. In *Mazur* world expect to have considered judgment and put in place supervision. Regulators heightened interest in whom is conducting litigation.
3. Cost consequences of getting it wrong. If costs are incurred by an unauthorised person, costs will be vulnerable to challenge by clients and third parties. Costs lawyers are

already reporting instructions on basis opponent's work may have been conducted by an unauthorised individual. One firm has been seen to be jumping on the bandwagon.

It is nothing new but it is important. We should be interested. Now is time to review who is carrying out litigation if they come knocking or costs are challenged, put to bed quite quickly. Reach out to paralegals and legal executives who aren't – they may need support.

If firms are waiting for guidance, likely to be waiting for some time. *Substance not form* means we will still need to consider guidance on a case-by-case basis. Expect further guidance from SRA, expect it to say case-by-case basis.

Needs to be a line drawn pre/post litigation work. SRA will say need to review procedures and evidence everyone who is conducting litigation is authorised to do so. Law Society ethical helpline available.

Frustrating situation to be in as members. Previous guidance to CiLEX members highlights historic confusion.

Putting it to members.

- One member said issue comes down to what is *conducting litigation*, they make sure all paralegals who are directing file decisions are writing the letters, but their names are not going on the letters, they should go out with a solicitor. Should you be taking all matters out of CiLEX lawyer into some authorised name or can they still run a file?
- *Substance over form*. Partner directs litigation exercising professional judgment, how do you evidence that to who is asking awkward questions if they do, if you are asked who has conduct of the litigation, they aren't going to be able to answer honestly. Martin's view - not enough to put matters into other people names, if they are continuing to actively progress the case. Equally, not enough to not be listed on the client care letter as the fee earner with conduct. Holistic approach.
- Other reserved activities, probate and property elements are able to be undertaken as long as you have *direction and supervision*. But these areas are also not immune from impact and worthwhile for these areas to review the guidance notes and LSA as well.
- Another member saying whilst already the law, there is an argument pre-Mazur which on Lexis/PLC says the wording for conduct of litigation allows for supervision. We know that Mazur says this isn't correct, maybe the answer wasn't as clear beforehand. What we do now is different but may make take comfort pre-Mazur when questions are asked.
- With reserved activity, there is an exemption, work needs to be done under the supervision of someone who is regulated. May be senior members who are not regulated who are doing the work without direction.
- It is not clear. Best advice is to ensure proper directional control in all reserved activities. Legal Services Act is 18 years old. Possibly out of date but it is what we have.
- Difference between skill level and responsibility. The quality mark of being a solicitor.

- SRA guidance has section about legal activities, conveyancing and probate can be carried out under *direction and supervision*, for litigation LSA 2007 makes no similar provision.
- Other reserved activities are not immune from us looking at whether we're complying with the regulations and may need to take guidance with pinch of salt than we have done previously.
- Giving advice – what is *not* conducting litigation, more about procedural steps involved in running a case, arranging court fee/witness statements. Tightening up steps. Signing off applications etc. by authorised person. All procedural steps must be done by authorised individuals. But management day-to-day can be done by anyone in my view.
- Sidelineing colleagues is an over-reaction. There is work they can do. In relation to an application, could get the solicitor/partner to sign, seems to be close to conducting litigation if you're making decisions rather than just physical step of completing form, getting someone to sign it. Baxter case- graduate Cilex. Person drafting the documents and the court said the fact someone else is signing it is not enough. If your paralegal is doing the work but then someone else is signing, may not be enough to say they're not conducting litigation. Who makes the decision? Who authorises the decision? Look at file notes. May be formalising what we're already doing. Some cases may require more consideration.
- The issue that has arisen most before affects barristers. Barristers cannot conduct litigation.
- Pre-litigation matters- bright light. Also, in terms of signing court documents may conducting litigation. If doing lots of RTA portal work, solicitor saying go ahead and puts in system, it's not an absolute, may give people some comfort that on a case-to-case basis, I know X did sign that but nevertheless what they were doing was administrative- *substance not form*. The decision to sign was not theirs, it was solicitors, but this is harder to evidence. We all need to evidence what we're doing. File notes will be important.
- Claims online. How do we make sure we cover our colleagues for this? Are we to stand over them and press the button? Seems unnecessary. May be sufficient to direct colleague to file.
- Outwardly looking- have people thought about their online profiles? We're coupled with risk with some firms who happily look at what opponents are doing. Hostage to fortune if saying paralegals are conducting litigation. May be worth checking.
- What do we say to clients? seems to be an issue. To what extent do we inform them about potential challenges to o/s costs. If it's in our client's interests to knock down costs budgets of O/S, although this seems unpalatable. Court unlikely to be interested in fixed costs, in low value cases, suspicion won't get very far and Court unlikely to require full disclosures of retainer.

- One of the other cases was around who signed the claim. Might this invalidate the claim? Once proceedings are acknowledged, all those points may fall by the wayside. In *Mazur* to the extent that there are irregularities, there would be ways to regularise this.
- In electronic world where issuing through portals, it is difficult to work out who has done what.
- Understand things we should be looking at that we're not doing right now or what we should be doing. Decision making seems to be a key feature, evidencing that. Anything more widely?
- Looking at strategic decision-making. Have an additional touch point with an authorised person whereas decisions were made in own right before.

We know CiLEX have put in an application to remove the need to do advocacy as part of the higher practicing rights course. Legal executives are running cases but may not do their own advocacy. LSB has 28 days to form a view on it. May be a new element to the qualification that can apply for. Firms employing legal exec colleagues may want to be clear to get application in as quickly as they can. If there's a course it's going to be oversubscribed, CiLEX trying to add in a bit of capacity but likely to take a number of months before any clarity/anyone can get the additional practicing rights.

Anyone given consideration to self-reporting to SRA? Reporting to SRA is a personal decision. There is no such thing as defensive reporting. Must be serious misconduct. Serious misconduct whereas someone is wilfully flouting the rules. Firms breaching LSA are doing so in public, doing something thought was fine, not serious misconduct. Separate from insurer requirements. View from firms who have taken advice is not to SRA report at this stage.

Recently closed files? Insurers may want to look at previous files. If no claim then seems to be significant time cost and effort to see whether there may be an issue. Heavy handed approach.

Has anyone got views of judges in this area? One judge's view was that they would grant exemptions under the LSA. One District Judge opined they would prefer to have a legal executive with experience above a litigant in person. Different judges have different views. One civil practitioner was asked by a District Judge what her qualification was. Judges can give rights of audience but can't go over and above LSA. Judge right to grant rights of audience is not as broad as some think. Grey area as to whether counsel can apply for conducting exemption and schedule 3(2) can ask a court to put it in the order that conducting litigation on behalf of party is authorised in the proceedings.

Reminder that some legal executives do have practising rights. CiLEX lawyer/CiLEX practitioner (with practicing rights).

Can an unregulated person take a witness statement and then this be authorised? The person taking responsibility for the statement should be authorised, proofing is a support function is the general rule. Key issue is who makes the decision to deploy the evidence.

Finally, worth bearing in mind the strain this is putting on unauthorised colleagues. Reference can be made to LawCare, the legal sector charity.

We will feedback to Law Society what we have discussed. If there is a desire to have a further roundtable discussion, we would be happy to organise it.

Ended: 13.42

Post-meeting notes:

1. Since the meeting, the Law Society has provided a guidance document dealing with a number of the issues raised above, with worked examples. Available here: [Mazur v Charles Russell Speechlys: what it means for litigators | The Law Society](#). Essential reading.
2. We have heard that some unauthorised individuals are writing to the judge in advance of a hearing to seek permission to be heard, where necessary. This can remove the uncertainty of arriving a hearing and not being heard.
3. Anecdotally, some practitioners have applied for, and been granted, the right to conduct the litigation in particular proceedings. However, we have also seen an email from HHJ Ingham to a family practitioner group confirming the judiciary is not able to grant such requests, only rights of audience in proceedings, for the duration of those proceedings and not more generally.