

Scrupulous, Thorough, Fearless – qualities sadly absent in our Regulators

The case for a UK Corruption Investigation Bureau in the wake of Carter-Ruck & Anor v SRA

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For decades the solicitors' regulator acted as though it could compel solicitors to hand over their clients' privileged files. On 21 September the High Court told the regulator that it never could. The judgment is not a story about one law firm, instead it is a verdict on the inadequate way England & Wales, and the other UK jurisdictions, police their professions, its financial institutions and, too often, itself.

Singapore's anti-corruption agency, the Corrupt Practices Investigation Bureau (CPIB) formed all the way back in 1952, titles its official history with three words – “*scrupulous, thorough, fearless*”. They describe what any citizen or organisation should be able to expect from those who investigate the powerful. When considering the UK's regulatory landscape, both at a jurisdiction and UK level, it is easy to conclude that our regulators lack both that philosophy and the capabilities.

The latest damning evidence of this sad state of affairs arrived last week. In *Carter-Ruck Solicitors & Anor v Solicitors Regulation Authority* [2026] EWHC 2416 (KB), Mr Justice Butcher held that a production notice under section 44B of the Solicitors Act 1974 cannot force a solicitor to produce material covered by a client's legal professional privilege unless the client waives it. The regulator of solicitors in England & Wales has apparently been exercising a power it did not legally have.

A power Parliament refused to grant

Perhaps the most striking fact in the judgment is not the result, it is the history. In 2007, during the passage of the Legal Services Act 2007, the Law Society asked Parliament for an express power to override legal professional privilege (LPP). The Labour Government declined due to “*real sensitivities*” and so the amendment was withdrawn.

The new regulator though carried on regardless with its position seemingly resting on a previous Court of Appeal decision about accounts rules and some more recent first-instance rulings. The judge observed that in several of those the point had been argued far less fully, with the other side self-represented or absent. The SRA's own counsel conceded in court that the law was “*unsatisfactorily unclear*”.

Carter-Ruck and its client, Mr Amersi, deny any wrongdoing, including any suggestion that they sought to mislead the court, and nothing in the judgment finds otherwise. The claimants also accused the SRA of pursuing speculative dishonesty allegations against senior solicitors. That is arguably the paradox worth dwelling on. The solicitors' regulator stands accused of overreach in how it investigates, while lacking the legal foundation for the tool it says it needs most.

Irrespective of the facts in the Carter-Ruck case, where Mr Amersi as client indicated that he was prepared to assist the SRA subject to assurances about his documents, the wider problem is real. Where the complainant is not the client, the interests of the solicitor or firm and its client will often be aligned. If the allegation concerns what the solicitor knew or advised, the client declines to waive LPP and there are no other contemporaneous records, the investigation is effectively over. That is a serious blow to the investigation of Strategic Lawsuits Against Public Participation (SLAPPs) and other issues, where complaints typically come from the other side of the dispute.

The SRA rightly told the court it needs privileged files chiefly where the complainant is not the client, and where solicitor and client interests are aligned. After the Carter-Ruck judgment, a client can simply decline to waive privilege and cannot be questioned about why, while solicitors are, rightly, under a duty to assert that privilege on their client's behalf. This is what happens when an investigator's powers are assumed rather than legislated.

A pattern, not an accident

The same pattern repeatedly recurs wherever those in positions of responsibility meet the generally inadequately resourced people meant to police their activities and investigate them. From the Post Office Scandal to London Capital & Finance and cases involving larger financial institutions, in each case the problem is structural, demonstrating fragmented jurisdiction, assumed or missing powers, and investigators often too close to or with interests aligned to those whom they investigate.

The Singapore lesson

Singapore did not always have clean institutions, and its recognition of its historical failings is candid. Under colonial rule, corruption flourished largely it seems because offenders expected never to be caught. In the UK today, virtually no one outside particular industries such as construction expects to go to prison or face criminal proceedings for wrongdoing. Some financial institutions and their lawyers have pressured customers to the point of despair, with tragic consequences in some cases, and with little fear of accountability. The

Post Office and its lawyers did likewise, on the basis of evidence now known to be false, and lives were lost, yet no one has so far been held to account. Even the slightest hint of corruption causes the public to lose confidence in financial institutions, in professions or in government and it is hard to dispute that trust generally is at an all-time low and the public are crying out for ‘change’.

The CPIB in a much smaller jurisdiction has over its history investigated a serving Minister of State, who was convicted and jailed in 1975. It investigated a Cabinet minister in 1986. A senior utilities official received 14 years in 1994 – which is perhaps music to the ears of Feargal Sharkey and many others wondering how the privatised water industry can continuously keep polluting our rivers and seas with executives facing no individual culpability. As a result, Singapore has consistently been ranked among the ten least corrupt countries globally in Transparency International’s index since 1995.

Three lessons need to be learned from Singapore. Firstly, investigators need powers set out so plainly in statute that no court has to infer them; secondly, they must be structurally separate from the institutions they police with no aligned interests; and thirdly they must be sufficiently resourced and able to follow the evidential trail wherever it may lead.

A UK Corruption Investigation Bureau

The time has now come for England & Wales, and all the UK if the other two jurisdictions are willing, to legislate for a single, independent well-resourced Corruption Investigation Bureau. It would take over the investigative and enforcement functions now scattered across the SRA, the Bar Standards Board, the FCA, the insolvency RPBs, the accountancy bodies, the smaller regulators that admit they lack the money to investigate properly, and even governmental conduct regulators like the Ethics and Integrity Commission.

Its remit would in summary cover three distinct groups: regulated professionals, financial institutions, and public office-holders, including ministers, officials and the judiciary. Some standards would still be set by the professions and their oversight bodies; but investigation for alleged wrongdoing would move entirely out of their hands. The Bureau would take responsibility for Whistleblowers, as well as others in positions of vulnerability, and would be properly resourced to prove the necessary support and protection to everyone in need.

The bureau would investigate both civil and criminal wrongdoing, from breach of professional duty to fraud and bribery. It would not prosecute or judge. Criminal cases would go to the Serious Fraud Office or the CPS. Regulatory and civil cases would go to a new Professional and Public Integrity Prosecutor, and then to independent courts and

tribunals. Investigator, prosecutor and judge would never be the same body. Its most intrusive powers would require the authorisation of the Attorney General or another Law Officer, who must answer to Parliament for those decisions, with a presumption in favour of authorisation. The bureau itself would report to Parliament rather than to ministers, so that it is scrupulous as well as fearless, and publicly accountable.

Public trust in the professions, in financial institutions and in government will not be restored by another review of another regulator. The problems in insolvency for instance will not be miraculously cured by merging three regulators into one. Instead, we need an institution built on purpose to be scrupulous in method, thorough in inquiry and fearless in whomever it investigates. Singapore established one seventy years ago. We now urgently need to establish our own.

This article is dedicated to the memory of Simon Andriesz who bravely fought alone for several years doing what he believed was right in exposing evidence of wrongdoing. Simon as a lone and vulnerable voice was let down by some of those who he needed to trust and who were able to make a difference. It is a tragedy that he felt so let down, how he sadly saw no way out recently and was lost.

To all Simon's family and friends, please stay strong, the pain must be unimaginable, and you, along with Simon, are in the thoughts of so many around the world. The words will never be right or adequate, but so many are there supporting you, even if not present or apparent, both now and in the weeks, months and years to come.

If you are affected by the issues raised in this article, Samaritans can be contacted free at any time day or night on 116 123 – please call them.