

# Full Brief

## Case Law Research Memorandum

**Subject:** Conduct of litigation by unauthorised person under supervision

**Jurisdiction:** England and Wales

**Generated:** 17 May 2026

### Quick Read

**Delegation and Retained Responsibility:**

Recently clarified by Court of Appeal — responsibility-retention framework now governs; minimum supervision threshold remains undefined

**Key Risk:**

The law draws no bright line between genuine and nominal supervision, meaning a firm whose arrangements are substantively inadequate — even if formally compliant — may be found to have allowed an unauthorised person to assume responsibility for litigation, exposing the paralegal to criminal liability under section 14 of the Legal Services Act 2007 and the supervising solicitor to professional consequences

**Best Argument:**

The Court of Appeal in Mazur [2026] EWCA Civ 369 definitively established that an unauthorised person may lawfully perform any litigation task — including issuing proceedings and filing documents — provided the authorised individual genuinely retains direction, control and formal professional responsibility, making the inquiry functional and factual rather than dependent on the label attached to the arrangement

**Biggest Weakness:**

Neither the Court of Appeal nor the first-instance authorities have prescribed a minimum level of supervising-solicitor involvement sufficient to satisfy the responsibility-retention test, leaving firms without a reliable safe harbour and dependent on regulatory guidance whose legal status — as Baxter at [224] and [231] illustrates — may itself be uncertain

*The following factual assertions are taken from client instructions and have not been tested in evidence.*

neutral - Factual Background: A law firm employs paralegals and legal assistants who perform litigation tasks — issuing proceedings, filing documents, corresponding with the court — under the supervision of a solicitor. The firm wants to understand the boundaries of what unauthorised persons can lawfully do and the supervisory obligations of the authorised individual.

## Leading Authorities

The following authorities have been verified against the National Archives Case Law Database:

✓ [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369](#)

An unauthorised person does not commit an offence under section 14 when performing litigation tasks for and on behalf of an authorised individual who retains responsibility. ([25], [26], [27], [148], [150], [162], [187(v)], [187(vi)])

*"An unauthorised person can lawfully perform any tasks, which are within the scope of the conduct of litigation, for and on behalf of an authorised individual such as a solicitor or appropriately authorised CILEX member. The authorised individual retains responsibility for the tasks delegated to the..."*

✓ [Agassi v HM Inspector of Taxes \[2005\] EWCA Civ 1507](#)

A party represented by counsel instructed under the Licensed Access Scheme is a litigant in person for the purposes of CPR 48.6. ([26], [42], [56], [70], [73], [74], [76], [82])

*"Where a member of the Chartered Institute of Taxation instructs a barrister under the Licensed Access Scheme, the presence of the barrister does not prevent the party on whose behalf the barrister has been instructed from being a litigant in person."*

✓ [Nazeer v Solicitors Regulation Authority \[2019\] EWHC 37 \(Admin\)](#)

A solicitor who has received repeated judicial warnings about misconduct in a department of his firm cannot rely on trust in a colleague to avoid his own duty as COLP to take corrective action. ([12], [18], [61], [77], [78], [80], [81]-[82], [85])

*"The judgments in Madan and Patel mean that there is no substance in Mr Williams' submission that the Appellant 'had no reason not to trust [his brother] to supervise [immigration] work efficiently.' On the contrary, the Appellant had every reason to believe that the immigration department, as superv..."*

✓ [Brett v The Solicitors Regulation Authority \[2014\] EWHC 2974 \(Admin\)](#)

A finding of 'knowingly' misleading the court can be substituted with a finding of 'recklessly' misleading the court on appeal, as both fall within Rule 11.01. ([76], [78], [82], [85], [86], [96], [100], [111])

*"In my judgment, it is open to this Court, if it were to conclude that the finding of the SDT was wrong on the basis of Mr Brett having 'knowingly allowed the Court to be misled' nonetheless, to conclude that he was guilty of a breach of Rule 11.01 on the basis that he 'recklessly' allowed the Court..."*

✓ [Julia Mazur & Ors v Charles Russell Speechlys LLP \[2025\] EWHC 2341 \(KB\)](#)

An employee of an authorised firm is not entitled to conduct litigation under supervision; reliance on an SRA letter to the contrary is an error of law. ([48], [49], [61], [63], [64], [65], [68], [73])

*"The short answer to this question is 'no': Mr Middleton was not entitled to conduct litigation under the supervision of Mr Ashall. The learned judge's conclusion to the contrary, in reliance on the SRA's letter of 2 December 2024, was therefore an error of law."*

✓ [Craig Baxter v Sarah Doble & Anor \[2023\] EWHC 486 \(KB\)](#)

The burden of proving the offence under s.14(1) is on the claimant to the criminal standard; the burden of proving the s.14(2) defence is on the respondent to the civil standard. ([11], [177], [182], [183]-[184], [208], [211], [229], [231])

*"In relation to showing that, subject to the statutory defence, the Respondents have committed an offence contrary to section 14(1) of the 2007 Act, the burden of proof rests with the Claimant, and the facts must be proved to the criminal standard... So far as establishing the statutory defence is co..."*

✓ [XX v GH \(Legal Services Act 2007 Exemption\), Re \[2026\] EWFC 51 \(B\)](#)

The statute provides no criteria for granting an exemption to conduct litigation, leaving the matter to the court's discretion. ([27], [31], [32], [37], [38], [40], [44], [45])

*"The wording of Schedule 3 Legal Services Act 2007 provides no guidance as to how to reach the conclusion as to whether an individual should be granted exemption. It simply states that an individual will have exemption if granted by the Court."*

✓ **[Vehicle Control Services Limited v Stephen Langley \[2026\] EWCC 1](#)**

The term 'Solicitor's Agent' is misleading and does not confer any statutory right of audience; such persons are not 'exempt persons' under the Legal Services Act 2007. ([7], [17], [20], [22], [42], [44]-[45], [40]-[41], [52]-[54])

*"The commentary at White Book Vol. 2, para. 13-10 is inciteful: '...Some unqualified persons who offer advocacy services describe themselves as "solicitor's agents". This is a misleading term in this context as it implies an authority which does not exist. "Solicitor's agent" is not a term used in th..."*

## Legal Framework

The authorities establish a structured analytical sequence which a tribunal must follow.

**(1) Under the Legal Services Act 2007, 'conduct of litigation' is a reserved legal activity; the words 'conduct of litigation' refer to the tasks, while 'carry on' refers to direction, control and responsibility. (also: [Baxter v Doble \[2023\] EWHC 486 \(KB\)](#)). [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[21\]](#), [162], [166].**

**(2) An unauthorised person may lawfully perform tasks within the conduct of litigation for and on behalf of an authorised individual who retains responsibility; proper supervision is required.. [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[25\]](#), [187(v)-(vi)].**

**(3) The offence under section 14 of the Legal Services Act 2007 is to be interpreted narrowly. (also: [Agassi v Robinson \(Inspector of Taxes\) \[2005\] EWCA Civ 1507](#)). [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[19\]](#), [187(ii)].**

**(4) A litigant in person's right to conduct litigation is personal and non-delegable; an unauthorised person who assumes responsibility for such tasks commits an offence.. [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[22\]](#), [174].**

**(5) Whether an unauthorised person is carrying on the conduct of litigation is a question of fact and degree, focusing on assumption of responsibility versus mechanical tasks. (also: [Baxter v Doble \[2023\] EWHC 486 \(KB\)](#)). [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[176\]](#), [187(iv)].**

**(6) Definition of 'conduct of litigation' under Schedule 2, paragraph 4 of the Legal Services Act 2007: issuing proceedings, commencement, prosecution, defence, and ancillary functions; purely clerical/mechanical activities excluded. (also: [Agassi v Robinson \(Inspector of Taxes\) \[2005\] EWCA Civ 1507](#)). [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[40\]](#), [190]-[191].**

**(7) The regulatory objectives of the Legal Services Act 2007 (section 1) inform the construction of the Act.. [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[4\]](#), [34].**

**(8) A solicitor who delegates tasks remains professionally responsible for the delegate's performance and for duties to the client and court.. [Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors \[2026\] EWCA Civ 369 at \[19\]](#), [143].**

**(9) Section 20(1) of the Solicitors Act 1974 prohibits unqualified persons from acting as a solicitor. 'Acting as a solicitor' means doing acts which only a solicitor may perform and/or pretending to be**

a solicitor.. Agassi v HM Inspector of Taxes [\[2005\] EWCA Civ 1507 at \[36\]](#).

(10) Section 28 of the Courts and Legal Services Act 1990 provides that the right to conduct litigation is defined by section 119 as the right to issue proceedings and perform ancillary functions. This definition is to be construed narrowly.. Agassi v HM Inspector of Taxes [\[2005\] EWCA Civ 1507 at \[55\]-\[56\]](#).

(11) A litigant in person under CPR 48.6 includes a party who instructs counsel under the Licensed Access Scheme, provided the party conducts the litigation himself.. Agassi v HM Inspector of Taxes [\[2005\] EWCA Civ 1507 at \[25\]-\[26\]](#).

(12) Under CPR 48.6(3)(a)(ii), a litigant in person may recover disbursements that would have been allowed if made by a legal representative. Work that a legal representative would normally do himself is not a disbursement.. Agassi v HM Inspector of Taxes [\[2005\] EWCA Civ 1507 at \[73\]-\[75\]](#).

(13) A solicitor's duty to the court is paramount. Knowingly or recklessly misleading the court is a breach of Rule 11.01 of the Solicitors Code of Conduct 2007 and Rule 1.02 (integrity).. Brett v The Solicitors Regulation Authority [\[2014\] EWHC 2974 \(Admin\) at \[106\]-\[108\]](#).

(14) A solicitor who allows the court to be misled due to a mistaken belief about confidentiality may be found to have acted recklessly rather than knowingly, but this still constitutes a breach of Rule 11.01.. Brett v The Solicitors Regulation Authority [\[2014\] EWHC 2974 \(Admin\) at \[96\]-\[100\]](#).

(15) A COLP has a duty under rule 8.5(c) of the SRA Authorisation Rules 2011 to take all reasonable steps to ensure compliance with regulatory obligations. Failure to do so, especially after judicial warnings, can amount to facilitating an abuse of process.. Nazeer v Solicitors Regulation Authority [\[2019\] EWHC 37 \(Admin\) at \[7\]-\[8\]](#).

(16) A solicitor can be found to have facilitated an abuse of process even without personal knowledge of specific claims, if his failure to manage and supervise the firm allowed the abuse to occur.. Nazeer v Solicitors Regulation Authority [\[2019\] EWHC 37 \(Admin\) at \[77\]-\[78\]](#).

(17) On appeal from the SDT, the court will only interfere if the decision was wrong or unjust due to serious procedural irregularity. The tribunal's decisions on sanction are given considerable respect.. Nazeer v Solicitors Regulation Authority [\[2019\] EWHC 37 \(Admin\) at \[3\]-\[4\]](#).

(18) Costs in regulatory proceedings must be proportionate. The fact that a regulatory authority chooses to instruct expensive lawyers does not automatically make those costs recoverable.. Brett v The Solicitors Regulation Authority [\[2014\] EWHC 2974 \(Admin\) at \[114\]](#).

(19) Conduct of litigation is a reserved legal activity under s.12 and Schedule 2, para 4 of the Legal Services Act 2007. It includes issuing proceedings, commencement, prosecution and defence, and ancillary functions.. Craig Baxter v Sarah Doble & Anor [\[2023\] EWHC 486 \(KB\) at \[88\]](#), [93].

(20) A person who is not individually authorised cannot rely on their employer's authorisation to carry out reserved legal activities. Section 21(3) LSA defines 'regulated persons' but does not extend authorisation.. Julia Mazur & Ors v Charles Russell Speechlys LLP [\[2025\] EWHC 2341 \(KB\) at \[48\]-\[49\]](#), [61]-[63].

(21) Whether a person is conducting litigation or providing administrative support is a question of fact and degree. Substance prevails over form. The court looks at the totality of activities.. Craig Baxter v Sarah Doble & Anor [\[2023\] EWHC 486 \(KB\) at \[183\]-\[184\]](#), [208]-[211].

(22) Statutory defence under s.14(2) LSA: the accused must prove on the balance of probabilities that they did not know, and could not reasonably have been expected to know, that the offence was being committed.. Craig Baxter v Sarah Doble & Anor [\[2023\] EWHC 486 \(KB\) at \[11\]](#), [224]-[226].

(23) The definition of 'conduct of litigation' in the 2007 Act is broader than under the 1990 Act. Agassi v Robinson is not authoritative on the meaning under the 2007 Act.. Craig Baxter v Sarah

Doble & Anor [\[2023\] EWHC 486 \(KB\)](#) at [\[114\]](#), [\[177\]](#).

**(24) Service of a claim form or other court documents amounts to the conduct of litigation if the person assumes legal responsibility for service, as opposed to performing a purely mechanical function..** Craig Baxter v Sarah Doble & Anor [\[2023\] EWHC 486 \(KB\)](#) at [\[192\]](#)-[\[194\]](#).

**(25) The giving of legal advice alone does not amount to the conduct of litigation. Steps taken before proceedings are issued do not constitute conduct of litigation. (also: Agassi v Robinson (Inspector of Taxes) (No 2) [2005] EWCA Civ 1507).** Craig Baxter v Sarah Doble & Anor [\[2023\] EWHC 486 \(KB\)](#) at [\[203\]](#)-[\[206\]](#).

**(26) Exemption to conduct litigation under Schedule 3 Legal Services Act 2007: only in exceptional circumstances, especially where authorisation route exists..** XX v GH (Legal Services Act 2007 Exemption), Re [\[2026\] EWFC 51 \(B\)](#) at [\[27\]](#)-[\[37\]](#).

**(27) Legal Services Act 2007, Schedule 3, para. 1(7): Exempt Person criteria for rights of audience.** Vehicle Control Services Limited v Stephen Langley [\[2026\] EWCC 1](#) at [\[8\]](#).

**(28) CPR 27APD.3: Lay representative may appear at small claims trial only if the lay party also attends.** Vehicle Control Services Limited v Stephen Langley [\[2026\] EWCC 1](#) at [\[29\]](#).

## Competing Lines of Authority

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### The Statutory Definition of 'Conduct of Litigation' and the Two-Part Analysis

Courts have held that the phrase 'conduct of litigation' in Schedule 2, paragraph 4 of the Legal Services Act 2007 encompasses three categories of activity: the issuing of proceedings before any court in England and Wales; the commencement, prosecution and defence of such proceedings; and the performance of ancillary functions in relation to such proceedings (such as entering appearances). Purely clerical or mechanical activities are excluded from the definition. The Court of Appeal in Mazur (EWCA) confirmed this statutory scope and emphasised that the definition under the 2007 Act is broader than its predecessor under the Courts and Legal Services Act 1990, since the 1990 Act's right to conduct litigation was limited to formal steps such as issuing proceedings and entering appearances, whereas the 2007 Act added the commencement, prosecution and defence of proceedings. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[40\]](#), [\[190\]](#)]; *Craig Baxter v Sarah Doble & Anor* at [\[\[93\]](#), [\[177\]](#)]; *Agassi v HM Inspector of Taxes* at [\[\[55\]](#), [\[56\]](#))).

The Court of Appeal in Mazur (EWCA) has established that the phrase 'conduct of litigation' has two distinct elements: 'conduct of litigation' refers to the tasks to be undertaken, while 'carry on' refers to direction, control, and responsibility for those tasks. This bifurcated analysis is central to determining whether an unauthorised person commits an offence under section 14 of the 2007 Act. It is the assumption of responsibility that distinguishes unlawful conduct from lawful delegation. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[162\]](#), [\[166\]](#)]; *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[21\]](#))).

### The Delegation Principle: When Unauthorised Persons May Lawfully Perform Litigation Tasks

The Court of Appeal in Mazur (EWCA) — delivering the leading binding authority on this question — has held that an unauthorised person may lawfully perform any tasks within the scope of the conduct of litigation for and on behalf of an authorised individual, such as a solicitor, provided the authorised individual retains both formal and professional responsibility for those tasks. In that situation, the authorised individual is the person who is carrying on the conduct of litigation; the unauthorised person

does not commit an offence under section 14 of the 2007 Act. The Court of Appeal expressly rejected the distinction drawn by Sheldon J in the court below between 'supporting' an authorised solicitor in conducting litigation and 'conducting litigation under supervision', holding that the distinction was legally incorrect: both forms of activity are lawful provided the authorised individual retains responsibility. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[25\], \[27\], \[187\]\]](#); *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[148\], \[150\]\]](#)).

The judicial approach draws a firm distinction between the employer-employee delegation scenario and the position of a litigant in person. Courts have held that a litigant in person's right to conduct litigation is a personal right that cannot be delegated to an unauthorised third party. An unauthorised person who assumes responsibility for litigation tasks on behalf of a litigant in person — rather than on behalf of an authorised individual such as a solicitor — commits an offence under section 14. This distinction is critical for law firms, which operate on the authorised-individual model, and not the litigant-in-person model. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[22\], \[174\]\]](#)).

Courts have consistently held that the section 14 offence is to be interpreted narrowly, having regard to its penal character. Both the Court of Appeal in *Mazur* (EWCA) and earlier authority in *Agassi* confirm this principle of construction. The narrow interpretation is reinforced by the availability of the statutory defence under section 14(2), which reduces the need for an artificially restrictive reading of what constitutes the conduct of litigation. These two interpretive pressures — narrow construction of the offence and the availability of a statutory defence — operate together to calibrate the scope of the prohibition. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[19\], \[187\]\]](#); *Craig Baxter v Sarah Doble & Anor* at [\[\[182\]\]](#)).

## The Supervision Standard and the Authorised Individual's Retained Responsibility

Courts have held that the delegation of litigation tasks by an authorised individual to an unauthorised person requires proper direction, management, supervision and control, but the degree of supervision required is a matter for the regulators rather than the courts, and will depend on the circumstances of each case. Critically, the Court of Appeal in *Mazur* (EWCA) confirmed — with the concession of the Law Society and SRA — that universal prior approval of every document issued by an unauthorised person is not required by the 2007 Act. The authorised individual retains responsibility without needing to scrutinise every individual step in advance. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[25\], \[187\]\]](#); *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[109\], \[110\]\]](#)).

A solicitor who delegates litigation tasks to unqualified staff remains professionally responsible for the performance of those individuals and for compliance with duties both to the client and to the court. Delegation does not relieve the solicitor of those professional obligations. This principle was articulated in *Mazur* (EWCA) drawing on a well-established tradition predating the 2007 Act, which Parliament is taken to have recognised when enacting the statute. The retention of professional responsibility is both the condition for lawful delegation and the safeguard that protects clients and the administration of justice. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[19\], \[143\]\]](#)).

## The Fact-and-Degree Test: Distinguishing Lawful Tasks from Assumption of Responsibility

Courts have held that whether an unauthorised person is carrying on the conduct of litigation is a question of fact and degree in every case, and that substance prevails over form. The court is required to assess the totality of the activities undertaken, not each action in isolation. The key question is whether the unauthorised person has assumed responsibility for litigation tasks, or whether they are merely performing mechanical or administrative functions on behalf of an authorised individual who retains responsibility. The *Baxter* court found that providing a full-service package — including drafting pleadings, instructing counsel, paying court fees, corresponding with the opposing party, and ensuring procedural compliance —

amounted to conducting litigation as a matter of substance. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[176\],\[187\]\]](#); *Craig Baxter v Sarah Doble & Anor* at [\[\[183\],\[184\],\[208\],\[211\]\]](#)).

Courts have identified several activities that do not, in themselves, amount to the conduct of litigation. Pre-litigation steps, the giving of legal advice, drafting notices required as precursors to proceedings, and purely mechanical or administrative functions such as process serving fall outside the statutory definition. No step taken prior to the issue or commencement of proceedings constitutes conduct of litigation. These boundaries help define the safe perimeter within which unauthorised persons may operate without regulatory risk, though they do not override the overarching fact-and-degree analysis. (*Craig Baxter v Sarah Doble & Anor* at [\[\[203\],\[206\]\]](#); *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[190\],\[193\]\]](#)).

## Section 14(2) Statutory Defence: Knowledge and Reasonable Expectation

Courts have established that the statutory defence under section 14(2) of the 2007 Act is available where the accused proves on the balance of probabilities that they did not know, and could not reasonably have been expected to know, that they were committing an offence. The Baxter court held that the vagueness of the statutory definition, the lack of clear case law guidance, and good-faith reliance on regulatory advice were all relevant factors supporting the defence. In Baxter itself, the defence succeeded despite the court finding that the respondents had in fact conducted litigation, because the law was sufficiently unclear and the respondents had sought and followed specialist advice. The burden of proof on the statutory defence rests on the accused to the civil standard. (*Craig Baxter v Sarah Doble & Anor* at [\[\[11\],\[224\],\[229\],\[231\]\]](#)).

## Employment by an Authorised Firm Does Not Itself Confer Authorisation on the Employee

Courts have held that a person who is not individually authorised cannot rely on their employer's authorisation to carry out reserved legal activities in their own right. Section 21(3) of the 2007 Act defines the categories of persons subject to regulatory oversight — those authorised to carry out reserved legal activities and their employees — but it does not extend the authorisation of the employing firm to the individual employee. Both Sheldon J in Mazur (EWHC) and the Court of Appeal in Mazur (EWCA) agreed on this point, and the Court of Appeal expressly noted that the SRA's initial letter suggesting otherwise was wrong in law. The correct position is that the employee performs tasks on behalf of the authorised individual; it is the authorised individual who carries on the conduct of litigation, not the employee in their own right. (*Julia Mazur & Ors v Charles Russell Speechlys LLP* at [\[\[48\],\[49\],\[61\],\[63\]\]](#); *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[196\]\]](#)).

## Supervisory Obligations of the Authorised Individual: The COLP Dimension

Courts have held that a Compliance Officer for Legal Practice carries a duty to take all reasonable steps to ensure compliance with regulatory obligations, and that failure to discharge this duty — particularly in the face of repeated judicial warnings about firm conduct — can itself constitute facilitation of an abuse of process. In Nazeer, the High Court upheld a finding that a solicitor who was a COLP could be found in breach of the applicable conduct principles through inaction, even without personal knowledge of the specific misconduct, because his failure to manage the firm after receiving clear judicial warnings allowed abusive practices to continue. This underlines that the supervisory obligations of an authorised individual are not merely internal management matters but carry regulatory and disciplinary consequences. (*Nazeer v Solicitors Regulation Authority* at [\[\[12\],\[18\],\[61\],\[77\],\[78\]\]](#); *Nazeer v Solicitors Regulation Authority* at [\[\[7\],\[8\]\]](#)).

## Duties to the Court: The Overriding Obligation and Consequences of Breach

Courts have affirmed that a solicitor's duty to the court is paramount and overrides duties of confidentiality. Knowingly misleading the court constitutes a finding effectively equivalent to dishonesty; recklessly misleading the court — defined as awareness of an unreasonable risk that the court will be misled — is also a serious breach of professional conduct obligations. In *Brett*, the Divisional Court held that a solicitor who allowed the court to proceed on an incorrect factual basis, due to a mistaken belief that professional privilege prevented disclosure, was guilty of recklessly misleading the court. The court emphasised that a solicitor has options available to avoid misleading the court without breaching privilege, and that such conduct is among the most serious professional offences. (*Brett v The Solicitors Regulation Authority* at [\[\[76\], \[78\], \[82\], \[85\], \[100\], \[111\]\]](#); *Brett v The Solicitors Regulation Authority* at [\[\[106\], \[108\]\]](#)).

## Rights of Audience for Unqualified Persons: The Exempt Person Framework

Courts have held that an unqualified person acting as an advocate has no general right of audience in the civil courts unless they satisfy all four cumulative conditions for exempt person status under Schedule 3, paragraph 1(7) of the 2007 Act: they must be assisting in the conduct of litigation; acting under the instructions and supervision of an authorised litigator in those proceedings; being heard in chambers; and not appearing in reserved family proceedings. The *Vehicle Control Services* case established, at county court level, that advocacy alone does not satisfy the first condition of assisting in the conduct of litigation — the distinction between the two separate reserved activities of conducting litigation and exercising a right of audience must be maintained. An advocate who has taken no steps in the litigation other than receiving a brief to attend a hearing has not been assisting in the conduct of litigation. (*Vehicle Control Services Limited v Stephen Langley* at [\[\[17\], \[20\], \[42\]\]](#); *Vehicle Control Services Limited v Stephen Langley* at [\[\[22\]\]](#)).

## Court-Granted Exemptions to Conduct Litigation: The Exceptional Circumstances Threshold

Courts have held that the power to grant an exemption under Schedule 3 of the 2007 Act for a non-authorised person to conduct litigation must be exercised with due deference to Parliament's intention that reserved legal activities should ordinarily be performed only by authorised persons. The test is one of exceptional circumstances, and the ordinary consequences of a lack of authorisation — including loss of a chosen representative, additional cost and delay — do not satisfy that threshold because they arise in every such case. Where a clear route to authorisation exists, granting an exemption would undermine the statutory scheme. Courts also lack jurisdiction to grant a blanket or prospective exemption covering future proceedings; any exemption is limited to the specific proceedings before the court. (*XX v GH (Legal Services Act 2007 Exemption)*, *Re* at [\[\[31\], \[32\], \[37\], \[38\], \[40\], \[44\]\]](#)).

## Application to the Facts

**(1) Whether Paralegals and Legal Assistants Issuing Proceedings and Filing Documents are Carrying on the Conduct of Litigation.** The specific tasks described in this scenario — issuing proceedings, filing documents, and corresponding with the court — all fall squarely within the statutory definition of the conduct of litigation under paragraph 4 of Schedule 2 to the 2007 Act. Issuing proceedings is expressly listed as a reserved activity. Filing documents in the course of proceedings and corresponding with the court in relation to those proceedings are capable of constituting ancillary functions within the statutory definition, or elements of the prosecution or defence of proceedings. The *Baxter* analysis makes clear that substance prevails over form and that the totality of activities is assessed: if the paralegal is performing these tasks as part of a coherent package of litigation support that amounts to directing the litigation, the risk of contravention is heightened. The critical question under *Mazur* (EWCA) at [\[162\]](#) and [\[187\]](#) is not whether the tasks are performed by the paralegal, but whether the supervising solicitor retains

direction, control and responsibility for those tasks. If the solicitor genuinely retains that responsibility, the paralegal does not commit an offence under section 14; it is the solicitor who is carrying on the conduct of litigation. The firm must therefore ensure that its structures genuinely reflect this retained responsibility rather than merely creating the appearance of supervision. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[162\]](#), [\[187\]](#)]; *Craig Baxter v Sarah Doble & Anor* at [\[183\]](#), [\[184\]](#), [\[208\]](#)]; *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[40\]](#), [\[190\]](#))).

**(2) The Adequacy of Supervision: What the Authorised Solicitor Must Do.** The scenario raises the question of what supervision arrangements the authorised solicitor must maintain over paralegals performing litigation tasks. The Court of Appeal in *Mazur* (EWCA) at [\[187\]](#) confirmed that the detail of supervision is a matter for the regulators and will depend on the circumstances of each case; it is not a matter that courts will define prescriptively. Critically, the Law Society and SRA both conceded, and the Court of Appeal accepted, that universal prior approval of every document is not required. This means a law firm operating a model in which paralegals issue proceedings, file documents and correspond with the court — without the supervising solicitor reviewing every individual communication in advance — is not necessarily in breach of section 14, provided the supervising solicitor genuinely retains overall responsibility and has in place appropriate structures. However, the Nazeer authority demonstrates that supervision obligations have real disciplinary consequences: a solicitor in a management or compliance role who fails to respond to systemic warning signs — including, in a litigation context, judicial criticism — can be found to have facilitated a breach through inaction alone, at [\[18\]](#) and [\[78\]](#). For firms, this means that the supervision standard is not merely about document review but about systemic oversight, documented protocols, and active responses to identified problems. (*Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[25\]](#), [\[187\]](#)]; *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[109\]](#), [\[110\]](#)]; *Nazeer v Solicitors Regulation Authority* at [\[18\]](#), [\[78\]](#))).

**(3) The Risk that a Paralegal Assumes Responsibility and Thereby Crosses the Statutory Line.** While *Mazur* (EWCA) confirms that lawful delegation is possible, the fact-and-degree test from *Baxter* means there remains a genuine risk that, on the particular facts of a case, a paralegal or legal assistant has in practice assumed responsibility for litigation rather than merely performing tasks on behalf of the supervising solicitor. The *Baxter* court at [\[211\]](#) found that the respondents crossed the line because they did everything a solicitor would have done — drafting pleadings, instructing counsel, paying fees, corresponding with the other side, and managing procedural compliance — and thereby became the persons who were prosecuting the proceedings. In the present scenario, if paralegals are making judgment calls about procedural strategy, deciding unilaterally which documents to file or what positions to take in court correspondence, without the supervising solicitor's knowledge or approval of the substantive decisions, there is a risk that, assessed in totality, the paralegal rather than the solicitor is in substance directing the litigation. The question is not whether the tasks are ministerially executed by the paralegal but whether the intelligence and decision-making behind those tasks originates with the authorised solicitor. (*Craig Baxter v Sarah Doble & Anor* at [\[211\]](#), [\[208\]](#)]; *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[176\]](#), [\[187\]](#)]; *Craig Baxter v Sarah Doble & Anor* at [\[192\]](#), [\[194\]](#))).

**(4) The Court Duties Dimension: Paralegal Error in Court Documents and the Solicitor's Exposure.** Because a solicitor who delegates retains professional responsibility for the performance of the delegate, any errors in documents filed by paralegals — including misleading statements in court correspondence — create professional responsibility exposure for the supervising solicitor as well as potential liability under the duty not to mislead the court. The *Brett* authority establishes that this duty is not discharged by pointing to a mistaken belief about privilege or by attributing the error to a junior employee. A solicitor is required to take active steps when the court may be proceeding on an incorrect basis. Applied to the present scenario: if a paralegal files a document containing an inaccurate statement of fact or a misleading representation about the state of proceedings, and the supervising solicitor becomes aware of this and fails to correct it, the solicitor risks a finding of reckless breach of the duty not to mislead the

court, as established in Brett [at \[78\]](#) and [100]. The court in Brett [at \[86\]](#) made clear that there are options available to avoid misleading the court without breaching privilege, including withdrawing from the case or making a suitably limited correction. (*Brett v The Solicitors Regulation Authority* at [\[\[78\], \[82\], \[85\], \[86\], \[100\]\]](#); *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors* at [\[\[19\], \[143\]\]](#)).

**(5) Rights of Audience: When Paralegals Attend Court Hearings.** The scenario refers to tasks including correspondence with the court; if this extends to attending hearings, an additional regulatory layer is engaged. A paralegal who attends court to conduct advocacy — even on a routine or administrative matter — must satisfy the four cumulative conditions for exempt person status under Schedule 3, paragraph 1(7) of the 2007 Act. The Vehicle Control Services authority [at \[17\]](#) sets these out: the person must be assisting in the conduct of litigation (which requires more than advocacy alone), acting under the instructions and supervision of an authorised litigator, appearing in chambers proceedings, and not in reserved family proceedings. If the paralegal has been genuinely involved in assisting with the conduct of the litigation before the hearing — rather than simply attending as an advocacy agent — the first condition may be satisfied. However, Vehicle Control Services [at \[22\]](#) emphasises that the nexus between the paralegal and the supervising solicitor must be direct and sufficient, approximating the traditional managing clerk relationship. Sub-contracting advocacy through external agencies, or sending a paralegal with no prior involvement in the litigation, is unlikely to satisfy the statutory conditions. (*Vehicle Control Services Limited v Stephen Langley* at [\[\[17\], \[20\], \[22\], \[42\]\]](#); *Vehicle Control Services Limited v Stephen Langley* at [\[\[52\], \[54\]\]](#)).

**(6) The COLP's Systemic Oversight Obligations in a Paralegal-Driven Litigation Department.** In a law firm running a volume litigation operation with paralegals or legal assistants performing front-line tasks, the COLP's obligations under the applicable regulatory framework go beyond ensuring that individual matters have a named supervising solicitor. The Nazeer authority [at \[12\]](#) and [61] makes clear that a COLP who receives systemic warnings — whether from the regulator, the courts, or internal audits — and fails to take corrective action may be found to have facilitated regulatory breaches even without knowledge of the specific transactions giving rise to the issue. In the paralegal supervision context, this means that if a court criticises the quality of documents filed by the firm, if the regulator raises concerns about supervision standards, or if internal review reveals that paralegals are making independent decisions without adequate oversight, the COLP must take active steps. Documented evidence of those steps — and of the firm's systems for monitoring compliance — will be material in any subsequent regulatory or disciplinary process. (*Nazeer v Solicitors Regulation Authority* at [\[\[12\], \[61\], \[77\], \[78\]\]](#); *Nazeer v Solicitors Regulation Authority* at [\[\[7\], \[8\]\]](#)).

## Competing Lines of Authority

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### Supporting versus conducting under supervision: the superseded distinction

Sheldon J in *Julia Mazur* (EWHC 2025) [at \[48\]](#) and [64] held that an employee of an authorised firm is not permitted to conduct litigation under supervision, and that 'supporting' an authorised solicitor is permissible but 'conducting litigation under supervision' is prohibited, because the 2007 Act makes no provision for that category. The judicial concern expressed was that the SRA's letter purporting to authorise supervised conduct of litigation was 'clearly wrong' ([63]), and that the absence of an express provision in Schedule 3 for supervised conduct of litigation — unlike the express provision for reserved instrument activities — was determinative. (*Julia Mazur & Ors v Charles Russell Speechlys LLP*).

**Judicial response:** The Court of Appeal in *Mazur* (EWCA) [at \[27\]](#) and [187] expressly rejected Sheldon J's distinction, holding it was legally incorrect. The court held that the question is not whether the activity is labelled 'support' or 'supervision' but whether the authorised individual retains responsibility. The absence of an express exemption in Schedule 3 for supervised conduct was addressed [at \[155\]](#): one cannot safely

read across from provisions about one reserved activity to another, each having its own history and regulated practice. The historical practice of delegation — recognised by Parliament when enacting the 2007 Act — supports the opposite conclusion.

- Sheldon J's reasoning turned on the structure of Schedule 3 and the absence of an express supervised-conduct-of-litigation exemption; the Court of Appeal [at \[155\]](#) rejected this structural inference, holding that the drafting of provisions about one reserved activity cannot safely be used to draw inferences about another.
- Sheldon J applied the distinction in the context of a specific historic delegation by an identified individual (Mr Middleton); the Court of Appeal reframed the question from the identity and label of the delegatee to the question of who retains responsibility, making the analysis function-based rather than person-based.
- The Court of Appeal [at \[148\]](#) and [150] emphasised the long pre-existing regulated practice of delegation to unqualified staff, which Parliament is taken to have known about; Sheldon J gave less weight to this historical context in reaching his contrary conclusion.

### **Whether advocacy alone satisfies the first exempt person condition**

An unreported county court decision (*Halborg v Apple*, 2022) held that advocacy itself constitutes 'assisting in the conduct of litigation' for the purpose of the first condition in Schedule 3, paragraph 1(7). This reasoning was relied upon by unqualified advocates seeking rights of audience on the basis that their very appearance at a hearing constitutes sufficient assistance with the conduct of the litigation in question. The judicial concern underlying the Halborg approach appears to be a practical one: if an advocate attends a hearing on instructions from a firm, they are in some sense assisting with that litigation. (*Vehicle Control Services Limited v Stephen Langley*).

**Judicial response:** The District Judge in *Vehicle Control Services* [at \[20\]](#) and [15] expressly and fundamentally disagreed with Halborg, holding it was not binding and was wrong in principle. The statutory framework in the 2007 Act distinguishes 'conducting litigation' and 'exercising rights of audience' as two separate reserved legal activities. If advocacy alone counted as assisting in the conduct of litigation, the distinction between the two reserved activities would collapse. An advocate who has taken no steps in the litigation other than receiving a brief to attend a hearing has not been assisting in the conduct of litigation: *Vehicle Control Services* [at \[42\]](#). The first condition requires meaningful prior involvement in the conduct of the litigation, not mere attendance at a hearing.

- Halborg is an unreported county court decision, not binding on any court; *Vehicle Control Services* provides a detailed and principled analysis of why the reasoning in Halborg contradicts the statutory architecture of the 2007 Act.
- The Halborg approach would effectively create a general right of audience for unqualified persons attending on behalf of solicitors, contrary to the purpose of the exemption which was to preserve the traditional managing clerk role: *Vehicle Control Services* [at \[52\]](#) and [54].
- *Vehicle Control Services* [at \[22\]](#) requires a direct nexus between the unqualified advocate and the supervising solicitor approximating the managing clerk relationship; the Halborg approach, if accepted, would dispense with this nexus requirement entirely, enabling sub-contracted advocacy agencies to claim exempt status.

### **Whether the statutory defence under section 14(2) remains available once the legal position has been clarified**

In *Baxter* [at \[229\]](#) and [231], the court found that the defence succeeded because the statutory wording did not give a clear steer as to whether particular assistance would amount to the conduct of litigation, and because the respondents had sought specialist regulatory advice and adapted their business model in response to disciplinary action. This reasoning is premised on the existence of genuine legal uncertainty

about the scope of the definition. The judicial concern expressed was that Parliament must have envisaged there would be cases in which a person was performing a reserved activity while mistakenly believing they were not: [224]. (*Craig Baxter v Sarah Doble & Anor*).

**Judicial response:** The successful defence in Baxter was heavily dependent on the state of the law at the relevant time and on the specific facts of the respondents' situation. Following the Court of Appeal's decision in Mazur (EWCA), the legal framework has been substantially clarified. The defence is less likely to be available to persons who, after the date of the Mazur (EWCA) judgment, continue to organise their practice on the basis that the conduct of litigation can be delegated to unauthorised persons who assume full responsibility without an authorised individual retaining direction and control. The defence is also fact-specific: Baxter [at \[226\]](#) found the defence was not available in respect of one specific act (service of a certificate of service), which indicates the court applies the defence carefully to each discrete act rather than as a blanket exoneration.

- Baxter was decided before the Court of Appeal's detailed analysis in Mazur (EWCA) clarified the two-part 'carry on' analysis and the historical practice of delegation; a person relying on the defence after Mazur (EWCA) would face a stronger argument that they could and should have known the correct legal position.
- The Baxter respondents were not employed by an authorised firm and did not have access to the kind of regulatory guidance available to solicitors' firms; a law firm with access to SRA guidance and professional indemnity advisers is in a materially different position from an independent advisory service.
- The Baxter court [at \[226\]](#) found the defence did not apply to the specific act of signing a certificate of service, demonstrating the defence is assessed act-by-act and is not a wholesale shield against liability for all conduct.

### The significance of the SRA's own statements on the scope of section 21(3)

In the proceedings below in Mazur, HHJ Simpkins relied on a letter from the SRA dated 2 December 2024 which stated that employees of an authorised firm were permitted to undertake reserved legal activities by virtue of section 21(3) of the 2007 Act. The judicial concern in Mazur (EWHC) [at \[63\]](#) was that this amounted to a statement from the regulator itself that supervised conduct of litigation by employees was lawful, and that courts might reasonably defer to the regulator's interpretation of its own statutory framework. (*Julia Mazur & Ors v Charles Russell Speechlys LLP*; *Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors*).

**Judicial response:** Both Sheldon J [at \[63\]](#) and the Court of Appeal [at \[196\]](#) held that the SRA's letter was wrong in law, and the SRA itself subsequently reversed its position. The Court of Appeal made clear that regulatory statements cannot override the correct construction of the 2007 Act. The interpretation of a statute is a matter of law for the courts, not for regulators. Courts will not defer to an erroneous regulatory interpretation, however officially issued.

- The SRA's letter was an informal communication rather than a formal statutory guidance document or code; it did not go through any consultation process and carried none of the weight that formally issued regulatory guidance might attract.
- The SRA itself disavowed the letter in its submissions to the court, confirming that the letter's statement on section 21(3) was incorrect; this effectively removed the letter as a source of regulatory authority before either court had to decide how much weight to give it.
- The courts' consistent position — that statutory interpretation is for the courts not the regulators — is a principle of constitutional importance that operates regardless of how plausibly argued the regulatory position might be.

## Whether inadequate supervision can constitute facilitation of a breach without proof of the principal breach

In *Nazeer* [at \[71\]](#), the court noted that the pleading of allegation 1.1 as it applied to the appellant was not ideal, and that the drafting of the specific averment about state of mind created tensions in the case against the COLP. The concern was that regulatory proceedings might conflate two analytically separate questions: whether the firm's conduct was abusive, and whether the COLP's failure to supervise caused or facilitated that abuse. The court observed [at \[77\]](#) that the averment about the solicitor's state of mind was unnecessary insofar as it concerned the appellant, suggesting that the facilitation allegation should have been pleaded more cleanly without reference to knowledge or recklessness. (*Nazeer v Solicitors Regulation Authority*).

**Judicial response:** Despite the pleading difficulties, the court in *Nazeer* [at \[61\]](#) upheld the finding that the COLP was in breach of the applicable conduct principles for failing to manage the firm adequately. The court [at \[78\]](#) held that the failure to take any action in response to clear and repeated judicial warnings — described [at \[12\]](#) as one of the starkest warnings the judiciary could deliver — was sufficient to establish facilitation. The proposition that facilitation can be established by inaction, confirmed [at \[18\]](#), is binding and applies to any COLP who has received systemic warnings about misconduct in their firm.

- The *Nazeer* respondent's specific situation involved an identifiable, documented judicial warning in a named case (Patel) which directly and expressly warned the firm about its conduct in the immigration department; the facilitation finding was tied to this specific prior warning, not to a general management failing.
- The court in *Nazeer* [at \[12\]](#) emphasised that what made the inaction egregious was the particularity and strength of the warning received; a COLP who has received only general regulatory guidance about supervision standards, without a specific judicial or regulatory warning about conduct in their firm, may be in a materially different position from the respondent in *Nazeer*.
- The finding turned on the appellant's dual role as both COLP and company director, giving him both the regulatory duty and the executive authority to act; a supervising solicitor without firm-wide management responsibilities would face a more limited analysis.

## Comparative Case Analysis

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How courts have decided cases on comparable facts:

***Julia Mazur & Ors v Charles Russell Speechlys LLP & Ors*** [\[2026\] EWCA Civ 369](#) — Intervener (CILEX) challenging lower court ruling that employees cannot conduct litigation under supervision; authorised solicitor (Mr Ashall) had supervised a senior litigation executive (Mr Middleton, unauthorised); N/A. **Outcome: Modified.** Court of Appeal allowed CILEX's appeal. Held that the lower court's distinction between 'supporting' and 'conducting under supervision' was legally incorrect. An unauthorised person may lawfully perform any litigation task provided the authorised individual retains formal and professional responsibility. The underlying proceedings had been compromised [\[at \[27\], \[187\], \[195\]\]](#).

***Julia Mazur & Ors v Charles Russell Speechlys LLP*** [\[2025\] EWHC 2341 \(KB\)](#) — Litigants in person (appellants) challenging costs order; senior litigation executive (Mr Middleton) had performed litigation tasks for an authorised firm; N/A. **Outcome: Modified.** High Court allowed appeal and quashed costs order. Held that section 21(3) LSA does not authorise employees to carry out reserved legal activities, and the SRA's contrary letter was wrong in law. However, the broader distinction drawn between supporting and conducting under supervision was subsequently overturned by the Court of Appeal in the related appeal [\[at \[48\], \[63\], \[68\]\]](#).

**Craig Baxter v Sarah Doble & Anor** [2023] EWHC 486 (KB) — Respondents: director and company providing landlord advisory services, including drafting pleadings, instructing counsel, paying court fees and ensuring procedural compliance on behalf of a litigant in person; N/A. **Outcome: Struck down.** The contempt application was dismissed. Although the court found to the criminal standard that the respondents had conducted litigation (providing a full-service package of assistance amounted to the conduct of litigation), the statutory defence under section 14(2) LSA succeeded because the respondents proved they did not know and could not reasonably have been expected to know they were committing an offence, given the vagueness of the law and their reliance on regulatory advice [at 211], [231], [235]].

**Agassi v HM Inspector of Taxes** [2005] EWCA Civ 1507 — Appellant taxpayer (litigant in person) who engaged a non-solicitor professional (Tenon) to assist with litigation and instruct counsel under the Licensed Access Scheme; N/A. **Outcome: Modified.** On the costs issue, the Court of Appeal held that the appellant was a litigant in person and that fees paid to Tenon for work a solicitor would normally do were not recoverable as disbursements under CPR 48.6(3)(a)(ii). Left open whether specialist services going beyond normal solicitor work might be recoverable. Important for the narrow construction of the 1990 Act definition, though the 2007 Act definition is now broader [at 56], [73], [76]].

**Nazeer v Solicitors Regulation Authority** [2019] EWHC 37 (Admin) — Appellant solicitor who was COLP and director of a firm where another department made abusive immigration claims; appellant had no direct involvement but failed to act on repeated judicial warnings; N/A. **Outcome: Upheld.** The SDT's findings were upheld. The court held that a COLP can be found to have facilitated an abuse of litigation through inaction, even without personal knowledge of specific claims, where he failed to take corrective steps despite repeated judicial warnings about systemic failures in the firm [at 12], [77], [78], [86]].

**Brett v The Solicitors Regulation Authority** [2014] EWHC 2974 (Admin) — Appellant solicitor (legal manager) who failed to correct a misleading witness statement, allowing the court to proceed on an incorrect factual basis; N/A. **Outcome: Modified.** The appeal was allowed in part. The finding of 'knowingly' misleading the court was quashed and substituted with 'recklessly' misleading the court. The finding of breach of the integrity principle was upheld. Relevant to supervisory obligations because the case confirms that a solicitor's duty to the court persists irrespective of delegation and that reckless failure to supervise the accuracy of delegated work product engages serious professional sanctions [at 96], [100], [102], [111]].

**XX v GH (Legal Services Act 2007 Exemption), Re** [2026] EWFC 51 (B) — Chartered Legal Executive seeking court exemption under Schedule 3 LSA to conduct litigation in family proceedings without individual authorisation; N/A. **Outcome: Struck down.** The application for exemption was refused. The court held that the exemption power should only be exercised in exceptional circumstances, that the ordinary difficulties of lacking authorisation (delay, cost, loss of chosen lawyer) do not constitute exceptional circumstances, and that a clear route to authorisation existed via the CILEX portfolio route. The court emphasised that using the exemption power to bypass the professional regulatory process would undermine Parliament's statutory scheme [at 32], [37], [40]].

**Vehicle Control Services Limited v Stephen Langley** [2026] EWCC 1 — Unqualified advocate ('Solicitor's Agent') appearing on behalf of the claimant at a small claims trial, sub-contracted through an advocacy agency with no direct relationship to the instructing solicitor; N/A. **Outcome: Struck down.** The advocate was held to have no right of audience. He failed all four cumulative conditions for exempt person status under Schedule 3, paragraph 1(7) LSA: he had not assisted in the conduct of litigation (advocacy alone is insufficient), was not under the instructions and supervision of the litigating solicitor, and the lay client did not attend the hearing (precluding the lay representative route). The court would have declined to exercise its discretion to grant a special right of audience had it been asked [at 17], [20], [42], [45], [49], [51]].

## Risk Factors

**1. Insufficiency of supervision structures resulting in criminal liability for the paralegal and professional liability for the supervising solicitor (High).** If the firm's supervision arrangements are nominal rather than genuine — for example, a named supervising solicitor who does not review substantive decisions, is not available to the paralegal, or whose involvement is limited to signing off completed files — there is a real risk that, on a totality assessment, the paralegal is found to have assumed responsibility for the litigation and thereby committed an offence under section 14 of the 2007 Act. The Baxter court [at \[208\]](#) and [\[211\]](#) assessed the totality of activities, finding that full-service assistance crossed the line regardless of whether individual acts in isolation might have been defensible. Mitigating factors: Mazur (EWCA) [at \[25\]](#) and [\[187\]](#) confirms that universal prior approval is not required; the threshold for lawful delegation is achievable with well-designed systems.; The statutory defence under section 14(2) remains available, as confirmed in Baxter [at \[224\]](#) and [\[231\]](#), where good-faith reliance on regulatory advice supported the defence — though its availability diminishes as the law becomes clearer following Mazur (EWCA).; The Court of Appeal [at \[25\]](#) and [\[187\]](#) noted that the detail of supervision is a matter for the regulators, not the courts, leaving firms with flexibility to design proportionate structures.. Mitigation: Establish and document clear supervision protocols that demonstrate the authorised solicitor retains direction, control and substantive responsibility for litigation decisions, not merely administrative oversight.; Ensure supervising solicitors review key decisions, pleadings, and procedural positions before execution, even if they do not pre-approve every individual communication.; Implement regular file reviews and documented audit trails so that, in the event of regulatory scrutiny, the firm can demonstrate genuine retained responsibility..

**2. The COLP's systemic oversight obligations being engaged by volume delegation practices (High).** A law firm running a high-volume litigation department with significant paralegal delegation is at risk of a Nazeer-type finding if the COLP fails to respond to systemic indicators of inadequate supervision — including court criticism, client complaints, or internal review findings. The Nazeer court [at \[12\]](#) described the judicial warning in that case as 'one of the starkest warnings from the judiciary' and held that failure to act on it constituted facilitation by inaction under the principle established [at \[18\]](#). Mitigating factors: Nazeer [at \[61\]](#) required proof of breach of the applicable conduct principles to the criminal standard; regulatory proceedings face a significant evidential burden before a finding is made.; The facilitation finding in Nazeer was closely tied to the specific and repeated judicial warnings received; a firm that has not received such warnings is not in the same position as the respondent in that case.; Active compliance systems — documented training, regular supervision checks, responsive management — are relevant to whether the COLP has taken all reasonable steps.. Mitigation: The COLP should implement a documented protocol for escalating and responding to any court criticism, regulatory contact, or internal report of supervision failures in the litigation department.; Maintain records demonstrating that corrective action was taken whenever a systemic issue was identified, in accordance with the obligations described in Nazeer [at \[7\]](#) and [\[8\]](#).; Consider periodic independent audits of the firm's paralegal supervision practices to identify and address issues before they attract external scrutiny..

**3. Reckless breach of court duties through paralegal error not corrected by the supervising solicitor (High).** The Brett authority [at \[78\]](#) and [\[100\]](#) establishes that a solicitor who is or becomes aware that the court is proceeding on an incorrect basis — even if that state of affairs arose through a paralegal's error rather than the solicitor's own conduct — may be found recklessly to have misled the court if they fail to take corrective steps. The definition of recklessness is awareness of an unreasonable risk that the court will be misled. A supervising solicitor who notices inaccuracies in court documents filed by a paralegal but does not act, citing concerns about privilege or the awkwardness of the correction, is exposed to a finding of reckless misconduct. Mitigating factors: Brett [at \[85\]](#) and [\[86\]](#) confirmed that a solicitor can avoid

misleading the court without breaching privilege — options include withdrawal from the case or making a suitably limited correction — and the existence of these options reduces the argument that inaction was unavoidable.; The finding of recklessness in Brett [at \[76\]](#) was an improvement on the original SDT finding of knowingly misleading the court; where conduct is genuinely inadvertent, the outcome may be less severe than a knowing breach.; Brett [at \[75\]](#) noted the solicitor's own acceptance of negligence in failing to realise the misleading nature of the document; voluntary acceptance and remediation are relevant to the disciplinary outcome.. Mitigation: Supervising solicitors must actively review court documents filed by paralegals for accuracy, and must have in place a clear escalation path for addressing any inaccuracies identified before or after filing.; When an inaccuracy in filed documents comes to light, the supervising solicitor should seek independent advice promptly — Lord Thomas CJ at Brett [\[110\]](#) identified seeking senior or independent advice as the appropriate course for a lawyer facing a conflict between court duties and confidentiality.; Firms should adopt and train staff on a protocol addressing what steps to take when a filed document contains an error, including the options available under Brett [at \[86\]](#) for correcting the court's understanding without breaching professional privilege..

**4. Unqualified advocacy: paralegals attending court hearings without satisfying the exempt person conditions (High).** If the firm's paralegals attend court hearings — whether chambers appointments, case management conferences, or small claims trials — there is a risk that the conditions for exempt person status under Schedule 3, paragraph 1(7) are not satisfied. Vehicle Control Services [at \[17\]](#) sets out four cumulative conditions; any one of which, if unmet, removes the right of audience entirely. In particular, the requirement for the paralegal to have been assisting in the conduct of the litigation before the hearing (first condition, Vehicle Control Services [at \[20\]](#) and [\[42\]](#)) and to be under direct supervision of the authorised litigator (second condition, [at \[22\]](#)) may not be met where the paralegal is attending on matters with which they were not previously involved, or where the supervising solicitor is not directly connected with the hearing. Mitigating factors: Vehicle Control Services [at \[51\]](#) noted that courts retain a discretion to grant rights of audience to any person in appropriate circumstances, though this is described as a rare exception for fact-specific reasons.; Where the hearing is administrative in nature and genuinely ancillary to the prosecution of litigation in which the paralegal has been involved, the first and second conditions may be satisfied on the facts.; The court in Vehicle Control Services [at \[47\]](#) accepted that a small claims trial probably fell within the 'in chambers' category under the old CCR, meaning the third condition may be met in such proceedings.. Mitigation: Before sending a paralegal to any court hearing, verify that the paralegal has genuinely been involved in assisting with the conduct of that litigation (not merely briefed for the hearing), that the supervising authorised litigator has directly instructed and is supervising the paralegal in the proceedings, and that the hearing is in the relevant type of proceedings.; Document the paralegal's involvement in the litigation file so that, if their right of audience is challenged by the court or the opposing party, there is a factual evidential basis for the assertion that the first and second conditions are met.; Avoid using external advocacy agencies or sub-contracted advocates, given Vehicle Control Services [at \[44\]](#) and [\[45\]](#) finding that such arrangements do not satisfy the direct supervision requirement..

**5. Costs recovery uncertainty in fixed-costs cases where paralegal work is in issue (Medium).** The Agassi authority [at \[73\]](#) to [\[75\]](#) establishes that work which a solicitor would normally perform personally cannot be recovered as a disbursement. In the fixed-costs environment under CPR Part 45, there is a further risk that costs associated with the supervision of paralegal work, or with errors arising from paralegal performance requiring remediation, may not be recoverable and may in some circumstances count against the firm. The Mazur (EWHC) court [at \[68\]](#) found that costs exceeding the fixed costs cap could not stand where no exceptional circumstances had been identified. Mitigating factors: Agassi [at \[76\]](#) left open the possibility that specialist assistance going beyond what a solicitor would normally do might be recoverable as a disbursement; this provides some scope for arguing recoverability in cases involving highly technical paralegal input.; The Agassi costs analysis concerned a litigant in person, not a firm of solicitors; its direct application to costs claimed by a firm deploying paralegals is not straightforward and may not map directly onto standard inter-partes costs claims.; Where a paralegal is performing tasks

within a supervision structure that satisfies Mazur (EWCA), the costs are the firm's own costs, and the recoverable amount falls to be determined by standard costs principles rather than the disbursements analysis in Agassi.. Mitigation: Maintain accurate time-recording for supervising solicitors' involvement in matters delegated to paralegals, so that the firm can demonstrate on assessment that the work attributed to the supervising solicitor reflects genuine oversight and decision-making.; In Intermediate Track cases, ensure that costs claimed fall within the fixed costs cap under CPR Part 45 or that a properly evidenced exceptional circumstances argument is available, following the analysis in Mazur (EWCA) [at \[68\]](#) and [73].; Verify independently whether any subsequent authority has addressed the costs implications of paralegal-conducted litigation within a supervision structure, as the extracted authorities do not resolve this point definitively..

**6. The factual uncertainty of the 'totality of activities' assessment creating unpredictable outcomes in borderline cases (Medium).** The Baxter court [at \[228\]](#) and [229] acknowledged that 'the statutory wording itself did not give any clear steer as regards whether any particular advice or assistance would amount to the conduct of litigation' and that 'the words the prosecution of proceedings are vague and uncertain.' This inherent uncertainty in the fact-and-degree test means that where a firm's paralegal delegation falls into a grey zone — for example, where paralegals exercise significant practical autonomy on routine matters but escalate complex decisions — the outcome of any regulatory or judicial scrutiny is difficult to predict. Mitigating factors: The statutory defence under section 14(2), as applied in Baxter [at \[224\]](#) to [231], provides a measure of protection for persons acting in genuine uncertainty, particularly where they have sought and followed regulatory advice.; Mazur (EWCA) [at \[193\]](#) provides a non-exhaustive list of activities unlikely to fall within the statutory definition, giving practical guidance on the safer side of the boundary.; The Court of Appeal's analysis in Mazur (EWCA) [at \[162\]](#), [166] and [187] provides a clearer analytical framework than existed at the time of Baxter, reducing (though not eliminating) the zone of genuine uncertainty.. Mitigation: Seek up-to-date SRA regulatory guidance on supervision standards for paralegal delegation in litigation, noting that the Court of Appeal in Mazur (EWCA) [at \[187\]](#) confirmed that the detail of appropriate supervision is a matter for the regulators.; Document the decision-making rationale for the firm's supervision model, including reference to the legal framework established in Mazur (EWCA), so that, if the model is later challenged, there is a contemporaneous record of the firm's good-faith analysis.; Review the firm's internal protocols against the non-exhaustive list of activities identified at Mazur (EWCA) [193] as falling outside the statutory definition, and ensure the supervision model clearly reflects who is making the substantive litigation decisions..

## Areas of Judicial Scrutiny

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**1. Genuineness of Retained Responsibility versus Nominal Supervision (Weight: Decisive)** The Court of Appeal in Mazur (EWCA) identified the critical question as whether the authorised individual genuinely retains direction, control and responsibility for delegated litigation tasks, or whether supervision arrangements are nominal. The source text [at \[2\]](#) records: 'The judge distinguished [at \[64\]](#) of his judgment between: (a) supporting (or assisting) an authorised solicitor in conducting litigation, and (b) conducting litigation under the supervision of an authorised solicitor. The judge decided that an unauthorised person can do (a) but not (b).' The Court of Appeal [at \[27\]](#) held this distinction was wrong, but the underlying concern it reflects -- whether the authorised person is truly in charge or merely lending their name -- remains the central judicial preoccupation. Separately, the Court of Appeal noted [at \[25\]](#) that the delegation 'requires proper direction, management supervision and control,' and [at \[187\]](#) that the authorised individual must retain 'both formal and professional responsibility.' In Baxter [at \[208\]](#), Cavanagh J assessed 'the totality of the activities undertaken' to determine whether the unauthorised person had assumed responsibility, finding that a full-service litigation package crossed the line. The firm's factual scenario -- where paralegals issue proceedings, file documents and correspond with the court -- will be tested against

this standard. *Suggested response:* The case law establishes that the touchstone is not the label attached to the relationship but the substance of the supervisory arrangements. Mazur (EWCA) [at \[187\]](#) confirms that universal prior approval of every document is not required by the 2007 Act, and that the appropriate level of supervision is a matter for the regulators depending on the circumstances. However, the court has not prescribed a minimum threshold of involvement. Practitioners should note the concession by the SRA in Mazur (EWCA) [at \[109\]](#) that 'some proceedings could be commenced without the authorised individual knowing about them in advance, subject to rigorous systems,' suggesting that well-designed quality assurance systems may satisfy the responsibility-retention requirement even where contemporaneous sign-off is impracticable.

**2. Unreliability of Regulatory Guidance on Statutory Authorisation (Weight: Decisive)** Courts at multiple levels have expressed concern about the SRA's shifting and erroneous positions on statutory interpretation. In Mazur (EWHC), Sheldon J found that the SRA's guidance letter was 'clearly wrong,' recording [at \[63\]](#): 'The conclusion reached by the SRA in the decision letter of 2 December 2024, and which was relied upon by His Honour Judge Simpkins, that "employees [of GBS] are permitted to undertake reserved legal activities due to section 21(3)" is clearly wrong.' The Court of Appeal [at \[196\]](#) echoed this concern, noting: 'the SRA's letter of 2 December 2024, relied on by HHJ Simpkins, was wrong in law and contrary to the submission made to DDJ Campbell. It said, wrongly, that GBS was permitted to undertake "reserved activities" due to Section 21(3) of the 2007 Act... The SRA later reversed its position on section 21(3).' This was treated as a decisive factor in the costs analysis. *Suggested response:* The case law firmly establishes that SRA guidance is not authoritative on points of statutory construction. Courts will interpret the Legal Services Act 2007 independently. A firm relying on SRA guidance as its sole basis for permitting unauthorised staff to perform litigation tasks assumes a legal risk that the guidance may be incorrect. The position is compounded by the party concession in Mazur (EWCA) [at \[67\]](#), where Mr Ashall himself accepted that Mr Middleton was not entitled to conduct any reserved legal activity. Practitioners advising firms should ensure that delegation structures are grounded in the statutory framework as interpreted by the courts, not merely in regulatory correspondence.

**3. COLP's Duty to Act on Systemic Supervisory Indicators (Weight: Decisive)** In Nazeer [at \[12\]](#), Lavender J described the relevant judicial warning as among the starkest conceivable: 'It is hard to think of a starker warning from the judiciary than that delivered to Malik & Malik in the case of Patel.' The court held [at \[77\]-\[78\]](#) that a COLP who fails to act on such warnings can be found to have 'facilitated claims which were an abuse of the process of the Court' even without personal knowledge of specific claims, and that an averment about the solicitor's state of mind was unnecessary. The court further noted [at \[18\]](#) that 'facilitation of an abuse of litigation can be established by inaction as well as by positive acts.' This concern is directly relevant to a firm operating volume delegation to paralegals: if court criticism of work quality emerges, the supervising solicitor and COLP bear a heavy obligation to investigate and implement corrective measures. *Suggested response:* The Nazeer principle imposes a proactive monitoring duty on the COLP that extends beyond simply approving delegation structures at the outset. The case law does not define what corrective steps suffice, but it is clear that doing nothing after receiving warnings is treated as facilitation. The COLP's duty under rule 8.5(c) of the SRA Authorisation Rules 2011, as discussed in Nazeer [at \[7\]-\[8\]](#), requires recording failures and making records available to the SRA. Firms operating delegation models should maintain robust feedback loops from courts and opponents to the COLP, and should document all responsive actions taken.

**4. Lack of Statutory Clarity on the Boundary of 'Conduct of Litigation' (Weight: Significant)** Multiple courts have identified the statutory definition as vague and its boundaries difficult to ascertain. In Baxter [at \[228\]-\[229\]](#), Cavanagh J observed: 'The statutory wording itself did not give any clear steer as regards whether any particular advice or assistance would amount to the conduct of litigation. The words "the prosecution of proceedings" are vague and uncertain.' He noted [at \[229\]](#) that 'the vagueness of the statutory definition and the lack of clear case-law guidance are factors supporting a finding that a

respondent could not reasonably have been expected to know they were conducting litigation.' The Court of Appeal in *Agassi* [at \[56\]](#) similarly remarked: 'It is unfortunate that this important definition is so unclear. But because there are potential penal implications, its very obscurity means that the words should be construed narrowly.' This vagueness persists notwithstanding the broader definition in the 2007 Act, as identified in *Baxter* [at \[177\]](#). *Suggested response*: The acknowledged vagueness of the statutory language creates a zone of uncertainty for firms delegating litigation tasks to paralegals. Courts have responded in two ways: first, by requiring narrow construction of the offence provision, given its penal nature (*Mazur* (EWCA) [at \[19\]](#) and [\[187\]](#)); and second, by recognising that the section 14(2) statutory defence may be available to those who operate in good faith within the uncertain zone (*Baxter* [at \[231\]](#)). However, the availability of the statutory defence will diminish as the law becomes clearer following *Mazur* (EWCA). The Court of Appeal's non-exhaustive list [at \[193\]](#) of activities unlikely to constitute conduct of litigation -- including pre-litigation work, legal advice, correspondence, evidence-gathering, and instructing experts -- provides some practical guidance, though it does not purport to draw the line definitively.

**5. Risk of Misusing the Exempt Person and Exemption Frameworks (Weight: Significant)** In *Vehicle Control Services* [at \[52\]-\[54\]](#), District Judge Pratt expressed concern that the commercial 'Solicitor's Agent' model distorts the purpose of the statutory exemption: 'It is to distort the purpose of Sch3, para 7 beyond recognition that the traditional role of an inhouse managing clerk undertaking the routine work before the District Judge be extended into a wholesale unqualified advocacy scheme.' The court [at \[22\]](#) required 'a direct and sufficient nexus between the exempt person and the supervising solicitor, approximating the traditional "managing clerk" relationship,' which was not satisfied by sub-contracting through an advocacy agency. In *XX v GH* [at \[37\]](#), HHJ Farquhar expressed the parallel concern that granting exemptions would create an alternative route to authorisation that Parliament did not intend: 'Surely such an approach would not be giving the Will of Parliament due deference as it is creating an alternative method to be able to carry on activities which are specifically not authorised under the Act.' At [\[45\]](#), the court further cautioned that it should not use its exemption power 'to create a de facto authorisation scheme that bypasses the professional regulatory process established by Parliament.' *Suggested response*: These judicial concerns indicate that courts are vigilant against arrangements that seek to exploit statutory exemptions beyond their intended scope. For a law firm structuring paralegal delegation, the key takeaway is that the lawful route is the responsibility-retention framework confirmed by *Mazur* (EWCA), not the exempt person provisions or judicial exemptions. The exempt person conditions in Schedule 3, paragraph 1(7) are cumulative and narrowly construed (*Vehicle Control Services* [at \[17\]](#)), and judicial exemptions require exceptional circumstances that ordinary delegation arrangements cannot demonstrate (*XX v GH* [at \[32\]](#)). The court in *XX v GH* [at \[47\]](#) noted, as obiter, the hope that the Court of Appeal in *Mazur* would provide further guidance, and the *Mazur* (EWCA) decision has now resolved the central question in favour of lawful delegation with retained responsibility.

## Alternative Analytical Approaches

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In descending order of preference:

**1. The responsibility-retention framework as the primary analytical route.** The Court of Appeal in *Mazur* (EWCA) established a definitive framework for assessing the lawfulness of delegation to unauthorised persons. At [\[162\]](#), the court held that the phrase 'carry on the conduct of litigation' has two elements: the tasks themselves and the direction, control and responsibility for those tasks. The dispositive question is not whether the unauthorised person physically performed a litigation task, but whether the authorised individual retained responsibility for it. At [\[25\]](#) and [\[187\]](#), the court confirmed that an unauthorised person may lawfully perform 'any tasks' within the conduct of litigation for and on behalf of an authorised individual who retains both formal and professional responsibility, and that the required level of supervision 'depends on the circumstances' and is a matter for the regulators rather than the

courts. The court [at \[27\]](#) rejected any formalistic distinction between supporting and conducting under supervision, making the inquiry functional rather than taxonomic. This framework applies even where the unauthorised person performs tasks that would, if performed independently, constitute conduct of litigation -- such as issuing proceedings or filing documents -- because the authorised individual is treated as the person who 'carries on' the reserved activity. The practical consequence of this analysis, as observed [at \[148\]](#), is that it preserves a 'long-standing, well-regulated practice of delegation by solicitors to unqualified staff' which Parliament is taken to have known about when enacting the 2007 Act. *Relevant when:* Courts have applied this framework where an unauthorised person performs litigation tasks within an employment or agency relationship with an authorised individual who maintains genuine oversight, as occurred in the delegation by Mr Ashall (solicitor) to Mr Middleton (senior litigation executive) in Mazur.

**2. The totality-of-activities assessment for determining when the line has been crossed.** Where there is a dispute about whether an unauthorised person has assumed responsibility for litigation rather than acting under an authorised individual's direction, courts apply a holistic factual assessment. In Baxter [at \[208\]](#), Cavanagh J held that 'the court must assess the totality of the activities undertaken, not each action in isolation, to determine whether the conduct of litigation has occurred.' At [183]-[184], the court confirmed that substance prevails over form and the question is one of fact and degree. At [211], the court found that the respondents had crossed the line because they 'did everything for Mr Persey in relation to the proceedings that a solicitor or other authorised person would have done,' including drafting pleadings, instructing counsel, paying court fees, corresponding with the other side, and ensuring procedural compliance. Critically, this totality analysis distinguishes between persons who have assumed responsibility for the litigation and those performing 'purely mechanical or administrative' functions, as the Court of Appeal in Mazur (EWCA) confirmed [at \[176\]](#) and [187]. The court in Baxter [at \[192\]-\[194\]](#) drew a specific distinction between a process server performing a mechanical function (not conduct of litigation) and a person who assumes legal responsibility for service (conduct of litigation). For a firm's paralegals, this means that the assessment turns not on any single act but on the overall pattern of involvement and whether, viewed in the round, the paralegal has displaced the solicitor as the person directing the litigation. *Relevant when:* Courts have applied this totality assessment where an unauthorised person provides comprehensive litigation assistance directly to a litigant in person with no authorised individual retaining oversight, as in Baxter where the respondents acted for a landlord in possession proceedings without any supervising solicitor.

**3. The statutory defence under section 14(2) LSA as a fallback where conduct is found unlawful.** Even where an unauthorised person is found to have carried on the conduct of litigation, the 2007 Act provides a statutory defence under section 14(2). In Baxter [at \[11\]](#), it was common ground that the burden of proving this defence rests on the respondent on the balance of probabilities. The defence requires proof that the person 'did not know, and could not reasonably have been expected to know' that they were committing the offence. At [229], Cavanagh J held that the vagueness of the statutory definition and the absence of clear case-law guidance were factors supporting the defence. At [231], the court accepted that the respondent 'had sought and followed regulatory advice, and adapted their business model in response to disciplinary action,' which demonstrated a reasonable belief that she was not conducting litigation. However, the court's obiter [at \[237\]](#) is notable: even had the respondents been found in contempt, the judge stated he would have been 'extremely reluctant' to commit them to prison given their honest conduct and the absence of disadvantage to the claimant. The availability of this defence will narrow as the law becomes clearer following the Court of Appeal's definitive guidance in Mazur (EWCA). A person operating after that decision will find it harder to argue they could not reasonably have been expected to know the boundaries of the offence. *Relevant when:* Courts have applied the section 14(2) defence where the respondent operated during a period of genuine legal uncertainty, had taken professional advice, and had made good-faith efforts to remain on the lawful side of the line, as in Baxter where the law on what constitutes conduct of litigation was acknowledged by the court to be unclear.

4. **The non-exhaustive exclusion categories identifying safe harbours for delegation.** The Court of Appeal in Mazur (EWCA) at [193] provided obiter guidance in the form of a non-exhaustive list of activities that are unlikely to fall within the statutory definition of conduct of litigation. This list includes pre-litigation work, giving legal advice, conducting correspondence, gathering evidence, instructing experts, and signing statements of truth. Separately, in Baxter at [203]-[206], Cavanagh J confirmed that 'the giving of legal advice in itself does not amount to the conduct of litigation' and that 'no step that is taken prior to the issue or commencement of proceedings can amount to the conduct of litigation,' including drafting pre-action notices under the Housing Act. The Court of Appeal in Mazur (EWCA) at [190]-[191] further confirmed the exclusion of purely clerical or mechanical activities from the definition. These exclusion categories provide firms with a zone of confidence: tasks falling within these categories may be safely delegated to unauthorised persons without engaging the responsibility-retention analysis at all, because they do not constitute the conduct of litigation in the first place. For the firm's paralegals, this means that preparatory, advisory and administrative work falls outside the reserved activity, though the boundary with reserved tasks such as issuing proceedings and taking formal procedural steps remains fact-sensitive. *Relevant when:* Courts have identified these excluded categories in the course of defining the outer limits of the statutory offence, and they apply whenever the task in question is intrinsically non-reserved, regardless of who performs it and regardless of supervision arrangements.

## Key Considerations for Practitioners

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### Key Evidence

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- Gather and preserve documentary evidence of the supervising solicitor's active involvement in litigation decisions — including file notes, email approvals, and attendance records — to demonstrate that the authorised individual genuinely retained direction, control and responsibility, not merely nominal supervisory title.
- Compile a comprehensive activity log for each paralegal-conducted matter, mapping which decisions were made by the paralegal independently and which were made or approved by the supervising solicitor, to enable a totality assessment to be made if the delegation model is ever challenged.
- Maintain records of any court criticism, judicial comment, or regulatory contact relating to the quality of work in the firm's litigation department, together with documented evidence of the COLP's response to each such warning.
- Before any hearing at which a paralegal is to appear, obtain and preserve evidence of the paralegal's prior involvement in the conduct of the relevant litigation — such as correspondence, attendance notes, and file records — to support the assertion that the first exempt person condition is met.

### Points to Investigate

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- Conduct a precise mapping of each litigation task routinely performed by the firm's paralegals against the categories identified by the Court of Appeal in Mazur (EWCA) as falling outside the statutory definition, to identify which tasks are clearly permissible and which require more careful supervision documentation.
- Verify the current state of SRA guidance on paralegal supervision in litigation, noting that the SRA's previous letter on section 21(3) was found to be wrong in law and was subsequently reversed; do not rely on any SRA communication without independent legal verification of its accuracy.

- Investigate which correspondence with the court constitutes a step in the prosecution or defence of proceedings under the 2007 Act definition, as distinct from pre-litigation or purely administrative communications, given that the 2007 Act definition is broader than its 1990 predecessor and the boundaries remain fact-sensitive.

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- Investigate the contractual and operational structure of any arrangements the firm uses for hearing attendances by paralegals, specifically whether the paralegal is directly employed or instructed by the supervising solicitor or whether there are intermediaries in the instruction chain that may break the requisite nexus.

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- Consider whether the firm's paralegal supervision model, when assessed against the regulatory objectives of the 2007 Act (access to justice, public protection, professional standards), can be positively characterised as promoting rather than undermining those objectives — this may be relevant in any regulatory dialogue or proceedings.

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### Procedural Matters

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- Establish a clear internal escalation protocol for supervising solicitors and paralegals to follow when any court document may contain an inaccuracy or when the court appears to be proceeding on an incorrect factual basis, including the option to seek senior or independent advice before deciding whether and how to correct the court's understanding.

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- Ensure the firm's COLP has a documented compliance monitoring programme specifically addressing paralegal supervision in litigation, including a mechanism for recording any identified failures and the corrective steps taken, to demonstrate compliance with the COLP's obligations if questioned by the SRA.

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- In Intermediate Track litigation where the fixed costs regime applies, ensure that any application for costs exceeding the applicable cap is supported by an express and reasoned argument on exceptional circumstances, and that this argument is placed before the court at the earliest opportunity.

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- If the firm or any paralegal faces regulatory or contempt proceedings under section 14, clarify at an early stage the evidential standards applicable to each element of the case: the criminal standard applies to the primary allegation, while the balance of probabilities governs the statutory defence; structure the evidence accordingly.

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### Areas Requiring Further Research

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- Practitioners should verify independently whether the Court of Appeal in Mazur (EWCA) or subsequent appellate authority has provided further guidance on the test for granting exemptions under Schedule 3 of the 2007 Act, particularly in the context of Chartered Legal Executives or other practitioners seeking individual authorisation.

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- Research independently whether appellate authority has addressed the meaning of 'in chambers' in paragraph 1(7) of Schedule 3 to the 2007 Act and how it applies under the current CPR regime, given that the District Judge in Vehicle Control Services identified this as a significant unresolved ambiguity in the statutory framework.

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- Investigate the current state of SRA Standards and Regulations, practice notes, and any published guidance on supervision in litigation following the Mazur (EWCA) judgment, to understand the regulatory framework that will be applied in assessing the adequacy of a firm's supervision structures

— the extracted authorities confirm this detail is within the regulators' remit rather than settled by the courts.

- Verify whether the McKenzie Friends Practice Guidance referred to in Baxter has been updated or supplemented by guidance specifically addressing the position of paralegals and unqualified assistants in solicitors' firms, as the courts have drawn on that guidance by analogy in borderline cases.

## Recent Developments

The most significant recent legislative development appearing in the extracted authorities is the Economic Crime and Corporate Transparency Act 2023, section 193(1), which amended section 1 of the Legal Services Act 2007 to add the prevention and detection of economic crime as a regulatory objective. The Court of Appeal in *Mazur* (EWCA) at [34] identified this amendment when considering the regulatory objectives that inform the construction of the 2007 Act. Although the amendment does not directly alter the definition of the conduct of litigation or the offence under section 14, it expands the statutory context within which the Act must be interpreted, potentially reinforcing the public-interest dimension of requiring proper authorisation and supervision when litigation is conducted. Separately, the extracted legislative references confirm that the core statutory architecture governing the conduct of litigation -- sections 12, 13, 14, 18, 19, 20, 21 and Schedules 2 and 3 of the Legal Services Act 2007 -- has not been amended in its material provisions since enactment. The principal development in this area has been judicial rather than legislative: the Court of Appeal's decision in *Mazur* (EWCA) [2026] EWCA Civ 369 represents the first binding appellate authority to determine the lawfulness of delegation of litigation tasks by authorised individuals to unauthorised persons, resolving an uncertainty that had persisted since the 2007 Act came into force. Note: The following retrieved authorities were excluded from this memorandum as they concern legal domains unrelated to the conduct of litigation by unauthorised persons: *R (on the application of I) v SSHD* [2002] EWCA Civ 888 (immigration detention); *R (on the application of MXV) v SSHD* [2026] EWHC 251 (Admin) (immigration detention); *JN v United Kingdom*, Application No. 37289/12 (immigration detention under Article 5 ECHR); *R (on the application of IAB) v SSHD* [2024] EWCA Civ 66 (duty of candour in judicial review); *Masterman-Lister v Brutton* [2002] EWCA Civ 1889 (litigation capacity); *Singularis Holdings v Daiwa* [2020] AC 1189 (auditor negligence); *AssetCo v Grant Thornton* [2019] Bus LR 2291 (professional negligence causation); *Caparo Industries v Dickman* [1990] 2 AC 605 (auditor's duty of care); *Sasea Finance v KPMG* [2000] BCC 989 (auditor's duty to warn of fraud).

## Scope & Limitations

This Full Brief covers the area of law identified above based on verified authorities from the National Archives. Practitioners should independently verify all citations against original judgment texts and consider:

- Related areas of law that intersect but were outside the query scope
- Procedural aspects not already addressed (limitation periods, pre-action protocols)
- Factual dependencies where the analysis would change based on specific facts
- Recent legislative developments or pending reforms that may affect the position
- Quantification and remedies assessment

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