



MAZUR – WHAT DOES IT MEAN?

SUSANNA HELEY, LEGAL DIRECTOR 15 OCTOBER 2025

The Issue

- In *Mazur & Anor v Charles Russell Speechly* [2025] EWHC 2341 (KB) the High Court considered for the first time whether it was permissible for a person not personally authorised to conduct litigation to do so under supervision or under the umbrella of their firm's entity authorisation.
- The High Court invited intervention from the SRA and Law Society, both agreed that the answer to these questions was no. In order to conduct litigation, a person must be either personally authorised or exempt.
- It is permissible for unauthorised persons to "assist" an authorised person in the conduct of litigation. However the judge declined to assess whether the conduct in *Mazur* crossed from assistance by Mr Middleton into conducting the case.

What is “conducting litigation”?

- Mazur offers no real assistance on this point as the issue did not need to be decided. The SRA submitted:

41. *The SRA was not able to identify a case in which a Court had to consider directly at what point a non-authorised person ceases merely to support or assist an authorised person but assumes the conduct of litigation. The SRA suggested that the matter could be determined by having regard to the text and purpose of the LSA as well as “four key points of principle” identified by the Court of Appeal in Baxter at [181]-[184]: (i) the starting point must be the statutory language itself, and the statutory words must be given their natural and ordinary meaning; (ii) the legislation is penal in nature, and so in principle *should be construed narrowly*; (iii) *substance must prevail over form*; and (iv) *the question is one of fact and degree in every case.**

42. *The SRA stated that the key question to ask was whether the person has assumed responsibility for the conduct of the litigation and exercises professional judgment in respect of it. The SRA submitted that a non-authorised employee who assists a solicitor with conduct of litigation, even to a significant degree, by drafting litigation documents and letters, proving witnesses, or similar functions does not conduct litigation because it is the solicitor who exercises the final professional judgement about how the litigation is to be conducted and takes responsibility for that judgement. That would be different, however, if on a true analysis and focusing on substance not form the non-authorised person was the one responsible for the litigation and exercising professional judgment in respect of it.*

Baxter v Doble [2023] EWHC 486 (KB)

- Contempt of court application related to a wholly unregulated business and its principal
- The Court conducted a detailed analysis of the case law and considered whether pre LSA determinations were still applicable, finding that they are not due to the change in wording in the LSA
- Acknowledging significant uncertainty arising from previous decisions, the judgment nonetheless represents the best available guidance as to what is – and, importantly, what is not – “conducting litigation” – the SRA accepted that this was the best analysis available at present.

A matter of fact and degree in each case

- *Baxter* confirms that the “package of services” must be considered in the round.
- While some activities, taken in isolation would not amount to conducting litigation, they may add to the global picture and lead to a conclusion that the line has been crossed.
- The following activities were specifically considered– even in isolation - to fall within the definition:
- 223: ... *the filing of the claim form and particulars of claim, accompanied by the payment of the court fee, and the service of the reply and defence to counterclaim. Specifically, I think that the giving of instructions to an advocate; drafting of witness statements; the drafting of the application notice and draft order for the strike-out application; the drafting of the reply and defence to counterclaim; and the drafting of the case management summary for the CMC each formed part of the prosecution of the claim.*

Activities not the “conduct of litigation”

203. *The giving of legal advice in itself does not amount to the conduct of litigation. This applies even if the legal advice is about the procedures that need to be followed in the proceedings. This was said in Agassi, at paragraph 56, and, in my view, it still holds good.*
204. *The drafting of the notices under sections 8 and 21 of the Housing Act 1988 do not amount to the conduct of litigation. These are not steps in court proceedings themselves, even though they are necessary precursors to such proceedings. In many, perhaps most, cases, the service of a section 8 and 21 notice will not lead to litigation. The matter will be resolved without the need to issue proceedings.*
205. *It is also unlikely, in my view, that the service of the notice of issue was, on its own, the conduct of litigation. Though it was a formal document, and one that contained a statement of truth, it was not a document that was required to be served as part of the proceedings, and it was not served on the court or on the other party to the proceedings: it was served on any other occupants of the property.*

BUT – assessment has to be in the round and any of these activities can add to the context in considering the “package of services”

Outstanding questions

- Automated processes – is it enough for an authorised person to have set up an automated process – does that make the future operation of the process purely “mechanical” assistance?
- Reserved Instrument Activities – crossover – see (eg) Allen v Brethertons LLP [2019] EWHC B3 (Costs) relating to bills of costs prepared under supervision and JK v MK [2020] EWFC 2 holding that consent orders would **not** be reserved instruments but indicating that court forms may be reserved instruments on a literal interpretation of the LSA
- JK v MK para 36 reads:
- *...I do acknowledge that the width of the words of Paragraph 5(1)(c) do literally catch virtually every document which amicable have helped to prepare. The material part of the subparagraph reads: "preparing any other instrument ... relating to court proceedings in England and Wales". A definition of "instrument" could capture virtually any piece of legal writing. However, the consent order on this highly literal approach would be exempt by virtue of Paragraph 5(3)(b), which exempts "an agreement not intended to be executed as a deed". A signed draft consent order is plainly an agreement and it is plainly not intended to be executed as a deed. So, on this literal approach the main document, namely the consent order, is exempt under Paragraph 5, but the accompanying Form D81 falls foul of it. This is an absurd consequence of an over-literal approach. In in this regard I remind myself of the famous words of Lord Steyn about the dangers of literalism in Sirius International Insurance Co v. FAI General Insurance Ltd & Ors [2004] UKHL 54, [2004] 1 WLR 3251 at [19]:*

Costs considerations

- There is a risk that work conducted entirely by an authorised person would result in costs being irrecoverable as contrary to public policy
- SCCO already receiving submissions on necessity for greater involvement at higher rates – no judgments available yet
- If time for strategy discussion/giving instructions is to be disallowed as duplicative, it follows from the *Mazur* ruling that it is the lower rate which should be disallowed, otherwise there is an inherent penalty preventing costs recovery for steps necessary to ensure compliance

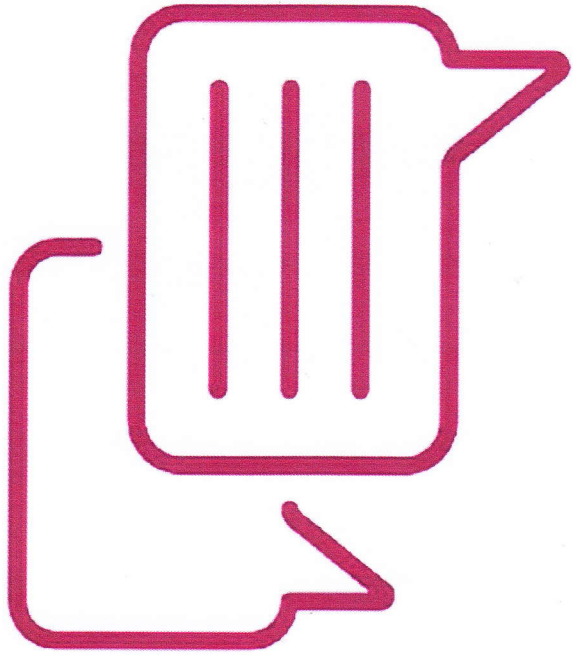
Advice, guidance and practical steps

- SRA, CILEx, TLS, some local law societies and insurance brokers including Locktons and Howden have issued guidance and recommendations. Aviva has also published guidance and a helpful checklist
- Broadly the consensus recommends:
 - Audit/triage existing files
 - Ensure training and issue updated internal guidance on what is and is not permitted by unauthorised staff – restrict online access to authorised staff
 - Designate an authorised responsible litigator for each file
 - Correct any documents signed by an unauthorised person
 - Engage with clients who may be impacted
 - Engage with insurers and regulators – consider self reports where non authorised staff have been managing files or supervising

Additional resources

- <https://global.lockton.com/gb/en/resources/the-mazur-judgement-key-consequences-and-risk-mitigation>
- <https://www.howdengroup.com/uk-en/news-insight/navigating-fallout-from-mazur-v-charles-russell-speechlys-howden-view>
- <https://cilexregulation.org.uk/2025/10/08/mazur-update-plus-next-steps/>
- <https://www.sra.org.uk/news/news/mazur-charles-russell-speechlys/>
- <https://legalservicesboard.org.uk/news/lrb-statement-high-court-decision-in-mazur-13-october-2025>
- Also worth reading: <https://www.judiciary.uk/guidance-and-resources/practice-guidance-mckenzie-friends-civil-and-family-courts/>
- There is no substitute for specific advice on your circumstances.

Questions?



Russell-cooke.co.uk

This material does not give a full statement of the law. It is intended for guidance only and is not a substitute for professional advice. No responsibility for loss occasioned as a result of any person acting or refraining from acting can be accepted by Russell-Cooke LLP. © Russell-Cooke LLP.

