

COLP, COFA & MLRO Update – Winter 2017

Current major SRA consultations

The SRA is currently running two major consultations as part of their “Looking to the Future” exercise. They are:-

1. Better Information, More Choice; and
2. Phase Two of the SRA Handbook Reforms.

Both consultations run until **Wednesday 20th December 2017** and the SRA has invited input from individual practitioners and firms.

The Law Society has responded to the consultations within the last week and a summary of the SRA consultation and Law Society responses appear below.

Better Information, More Choice

About this consultation

“We [*the SRA*] are consulting on publishing more of the regulatory data we hold about solicitors and firms we regulate. We are also consulting on asking the solicitors and firms we regulate to publish more information on the legal services they provide. We are proposing to:

- require firms to publish their price for services (limited initially to a select number of legal services)

- require firms to publish a description of the services they offer - in the same areas we will ask firms to publish price information
- require firms to make information on our regulatory protections available - this includes introducing a digital badge that verifies that a firm is regulated by us
- publish the data we already collect on first-tier complaints made against firms we regulate and their areas of practice
- build a digital register that holds our key regulatory data about solicitors and firms we regulate in one place and make this available to the public.
- require solicitors working in non-Legal Services Act regulated firms to inform clients that they are not subject to the SRA requirements for compulsory professional indemnity insurance.

We are proposing these changes because we want to make sure that people have accurate and relevant information about a solicitor or firm when they are considering purchasing legal services. This will help members of the public and small businesses make informed choices and improve competition.

Alongside this consultation, we have published our initial impact assessment of these proposals.

We are keen to hear your feedback on these proposals.

This consultation is running from 27 September 2017 until 20 December 2017. After this consultation closes, we will collate and analyse all the responses. We will then decide what next steps we need to take."

The full text of this consultation is available here:-

<http://www.sra.org.uk/sra/consultations/lttf-better-information-consultation.page>

The Law Society has responded to the Solicitors Regulation Authority (SRA) consultation *Looking to the Future: better information, more choice* as follows.

"The consultation makes a number of proposals, including a new requirement that solicitor firms should be required to publish price and service information on their websites for certain areas of law relating to individuals and small business customers.

It is important that clients can make informed decisions about the solicitors they choose, and they need to have the right information at the right time. However clients have very different legal needs, and legal services are complex. Simply requiring more information to be published on websites is unlikely to result in people making more informed choices. Solicitors are already required to provide the best possible information on cost to their clients, and the SRA should allow the market to respond to consumer demands for information in an appropriate way.

We commissioned independent behavioural research, carried out by London Economics and YouGov, to better understand consumer behaviour

and help solicitors to provide the best information to consumers. This research shows that consumers may not read or understand all of the information that they are provided [with], and may overlook important factors if information is presented in the wrong way."

The full text of the Law Society response is available here:-

<https://www.lawsociety.org.uk/policy-campaigns/consultation-responses/sra-consultation-looking-to-the-future-better-information-more-choice-law-society-response/>

Phase Two of the SRA Handbook Reforms

About this consultation

"Following our first Looking to the future consultation in summer 2016, we are now consulting on further changes to our Handbook and our proposed revised Enforcement Strategy. This consultation also includes the transitional arrangements for the introduction of the Solicitors Qualifying Examination (SQE).

Through our Looking to the future programme, we are:

- simplifying our regulations so they are clear on the high professional standards we expect and what we will do when solicitors fall short of those standards
- getting rid of unnecessary bureaucracy that drives up costs or restricts access to solicitors, while making sure the right public protections remain in place
- improving the information available to help people make better choices.

This consultation includes the rules to implement our policy decisions from phase one, which will free up solicitors to provide non-reserved legal services outside regulated firms. The detailed rules that give effect to our decisions on professional indemnity insurance (PII) and the Compensation Fund¹ will be included in our wider review of financial protection arrangements. These decisions were set out in our [response to our phase one consultation \(PDF 54 pages, 708K\)](#).

The information requirements that will apply to these solicitors as well as to regulated firms are included in our accompanying consultation - Looking to the future: better information, more choice.

You can find information on:

- what has happened with the rules in our existing Handbook, and the proposed sets of rules in our new Handbook, in annex one
- our revised Enforcement Strategy in annex two
- our assessment of the impacts of these changes in annex three.

We are keen to hear your feedback on these proposals.

This consultation is running from 27 September until 20 December 2017.

After this consultation closes, our next steps will be to collate and analyse all the responses. We will then decide what proposals we need to take forward.”

The full text of this consultation is available here:-

<http://www.sra.org.uk/sra/consultations/lttf-phase-two-handbook-reform.page#download>

The Law Society has responded to the Solicitors Regulation Authority (SRA) consultation *Looking to the Future: phase two of our Handbook reforms*.

“The consultation is part of a wider programme of Handbook reforms and includes the rules to implement the SRA policy decisions from the first phase of consultation which ran from June to September 2016. The phase two consultation proposes further changes to the way solicitors and firms currently practise. Key proposals include allowing self-employed solicitors to provide legal services on a freelance basis without the need to be authorised as a recognised sole practice, removing the 'qualified to supervise' rule, and widening the practising address requirements beyond England and Wales to anywhere in the UK.

The Law Society is concerned about the impact of some of these proposals on the profession and clients. We take the view that flexibility for solicitors should not come at the expense of client protections. We encourage members of the profession to [share their views directly with the SRA](#).

If you have any queries about the impact of these proposals on you or your practice, please get in touch with the Law Society's [regulatory affairs unit](#).”

The full text of the Law Society response is available here:-

<https://www.lawsociety.org.uk/policy-campaigns/consultation-responses/sra-consultation-looking-to-the-future-phase-two-of-our-handbook-reforms-law-society-response/>

And finally.....GDPR Checklist for external supplier contracts

Controller – [Firm name]

Processor – Third Party Contractor who will have access to or otherwise process confidential data.

Our contracts include the following compulsory **details**:

- ☐ the subject matter and duration of the processing;
- ☐ the nature and purpose of the processing;
- ☐ the type of personal data and categories of data subject; and
- ☐ the obligations and rights of the controller.

Our contracts include the following compulsory **terms**:

- ☐ the processor must only act on the written instructions of the controller (unless required by law to act without such instructions);
- ☐ the processor must ensure that people processing the data are subject to a duty of confidence;
- ☐ the processor must take appropriate measures to ensure the security of processing;
- ☐ the processor must only engage a sub-processor with the prior consent of the data controller and a written contract;
- ☐ the processor must assist the data controller in providing subject access

and allowing data subjects to exercise their rights under the GDPR;

- ☐ the processor must assist the data controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;
- ☐ the processor must delete or return all personal data to the controller as requested at the end of the contract; and
- ☐ the processor must submit to audits and inspections, provide the controller with whatever information it needs to ensure that they are both meeting their Article 28 obligations, and tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.

As a matter of **good practice**, our contracts:

- ☐ state that nothing within the contract relieves the processor of its own direct responsibilities and liabilities under the GDPR; and
- ☐ reflect any indemnity that has been agreed.