

Virtual law firm

Background

A solicitor wanted to set up an online virtual law firm where consultants would work from home and a central hub would provide services like IT and conflict checks.

He contacted us as he was unsure whether his particular model would be compliant with SRA regulations.

How we helped

This kind of business arrangement is possible under our regulatory framework but there are a number of issues he needed to carefully consider.

For instance, he would need to address supervision of the consultant's work and appropriate quality audits. We suggested this could be done through the central hub where all incoming post and emails are scanned and monitored.

We explained that there are specialist software systems which can monitor correspondence and can be set to “red flag” certain terms, for example to identify potential complaints and negligence issues. Some firms also employ an individual lawyer to check files and to make sure the right systems and procedures are in place.

We suggested the solicitor think carefully about their IT system as it will need to have up to date security, especially as the business will rely heavily on email communications. They would also need to consider whether the firm's servers are secure and where information is stored, particularly if they intend to make use of the cloud.

We offered guidance on this and suggested taking a look at the Risk resource area on our website for helpful insight into this and other topics such as fraud, scams and money laundering.

Results

The solicitor felt that he could proceed with his proposed business plan and was grateful to us for highlighting some of the regulatory considerations that he will need to address.



British Medical Association (BMA)

Background

The British Medical Association (BMA), the trade union and professional association for doctors, were considering ways to attract and retain members through providing proactive legal support.

One solution was to set up a new alternative business structure (ABS). If licensed, BMA Law would be able to provide a greater breadth of legal service to existing and potential members and their families.

The challenge

The BMA represents 170,000 doctors and its governing body is elected by its members. However the Legal Services Act 2007 does not allow for different treatment of special bodies.

For the BMA to either be licensed in its own right, or directly own a licensed body, it would have required the governing body and potentially the members to be approved as managers under our rules.

The collective nature of a union makes identification of the Schedule 13 persons more difficult. There was a risk that some might be missed, or that it would apply to hundreds or thousands of individuals. This would be neither practical or financially viable, and would have deterred the BMA from proceeding with the application.

How we helped

We met with the BMA to get more information about the potential structure of BMA Law. As part of these meetings, we gave examples of permissible structures for BMA staff to take away and look into in more detail.

Results

This early engagement led to a more straightforward application being submitted and meant BMA Law Limited would have just one corporate owner, a limited company.

Under the structure put forward, the BMA would be beneficially entitled to all profits from BMA Law Limited and would receive those through a trust over which it has no control.

The BMA would not own or have shareholding in BMA Law Limited, or any influence or control over management or voting rights.

Conclusion

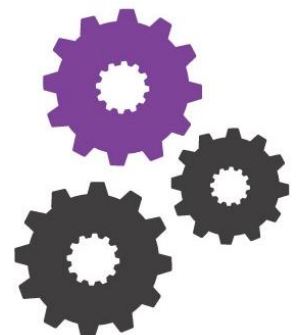
Licensing this body has enabled BMA Law Limited to offer the wide range of expert legal advice it wanted to. The BMA now offers a service which proactively supports its members and mitigates the possibility of costly legal disputes and/or issues.

This not for profit organisation invests any surpluses back into services for doctors. By doing this we have helped improve access to legal services and a positive wider impact.

Robert Day, Senior Lawyer, British Medical Association said:

“Given the nature of the BMA, the support of the SRA proved invaluable when it came to establishing BMA Law Limited as a licensed body. Throughout the entirety of what could have been a daunting process, they showed a real commitment towards proactively helping us establish a structure that was both practical and permissible.

“It is without question that this level of support enabled us to realise what was an embryonic idea in under 10 months. Having now been licensed for almost a year, BMA Law Limited is proving an enormously positive part of the wider functions and support offered by the BMA.”



Essex Legal Services Limited

Background/Challenge

Essex County Council's in house legal team wanted to attract new business and offer services to third parties. However they were limited as to what services they could provide and certain areas of work were prohibited.

Unless the local authority was able to evolve it would mean that they could no longer do certain work and they would have the additional expense of outsourcing this.

How we helped

Before applying to authorise Essex Legal Services Limited as a licensed body, we met with them to discuss how the new organisation would be owned. By asking for information ahead of time, we were able to prepare questions that would usually be asked after they had applied. This helped us find out who would be the interest holders in Essex Legal Services Limited and who would need approval.

From this meeting and follow up engagement, we established that as the council had 75 members, none would be seen as individuals to have a material interest.

Essex Legal Services Limited only had two directors so the structure was straightforward. We also asked that there would be a clear distinction between in house services that the local authority would continue to provide, and those from Essex Legal Services Limited

Results

Our advance engagement with the local authority helped reduce the time it took to reach a decision. We found that when the application was made, a lot of queries had already been raised and answered.

Conclusion

Licensing Essex Legal Services Limited means that the local authority can continue to provide cost effective services and expand its areas of work.



Pro bono 'case reviews

Background

A solicitor was looking to do pro bono case reviews through a separate advice clinic involving paralegals and law students. They would assess the merits of cases before referring them to the solicitor's law firm

This business would primarily offer its services to people who believe their conviction is unsafe. They would be invited to send in case papers and volunteers with legal knowledge would review and prepare case summaries. If it looked like an appeal was viable, the clinic would then refer the matter to his law firm.

The solicitor contacted us seeking advice as they were concerned that our rules would not allow for an unregulated side-project like this.

How we helped

We advised that following changes to our rules, we have made it easier for solicitors to be involved in separate businesses that offer a range of professional services.

In particular, we referred the solicitor to our guidance on the changes and stressed that our rules do not permit him to practise "as a solicitor" in a separate business, except in an in house capacity.

We explained that if he did want to practise as an in house solicitor within the project, he would need to comply with certain rules and make sure his work is covered by professional indemnity insurance.

Alternatively, we suggested that the new advice clinic could be a branch office of his existing firm, or set up as an entirely new authorised business.

We explained the rules around referrals, notably that his law firm must not make payments to the case review business for criminal law referrals.

We also suggested he think carefully about confidentiality and the need to get client's consent to discuss their matters freely with the volunteers, as well as considering how to keep information confidential.

Results

The solicitor is now in a position to make his plans a reality.



Proelium Law

Proelium Law wanted to provide legal and security advice to businesses and other organisations wanting to operate in hostile environments.

Background/Challenge

When they applied to the SRA, the solicitor behind Proelium Law was not sure which business model would be most suitable. For instance, whether a multi-disciplinary partnership (MDP) or non-MDP model would be most appropriate.

As it was intended to be run as a virtual business, we also sought assurances about client confidentiality. In addition, as the majority of its work would be conducted with clients overseas, we needed to know there would be no issues with foreign payments into their bank accounts.

How we helped

We gave Proelium Law guidance on how the regulation would differ between MDP and non-MDP status. We detailed how we regulate legal activities in each scenario, as well as how we expect client monies to be held.

Proelium Law chose to follow the MDP route and we worked with them to define work that would not be regulated by us so this could be reflected in the firm's license.

Conclusion

Working with the applicant to provide different options to suit their individual business needs resulted in us being able to authorise a firm which provides specialist services in a niche area.

Adrian Powell of Proelium Law, said: "The process can at first glance appear daunting. However, after reading all relevant guidance, I linked the process in my mind to that of an audit system. With further help and support from the SRA, I was confident that being authorised as an MDP means we are well structured and have all bases covered.

"I can see why the process might appear excessive, but if you compare it to other industries, for instance the international development world, it is up to date and in line with their requirements. So, this is not a case of the SRA being out of touch, they are absolutely dead on with the process and its requirements, which is really good to know."



Third Party Managed Accounts

Background

Instead of operating their own client account, a number of firms are now using other ways to manage client money. Law firms can now choose to use Third Party Managed Accounts (TPMAs) or payment service providers instead of holding the money themselves.

This makes it easier for some firms to do business, particularly those that do not hold much client money. It can also reduce indemnity insurance premiums and the need to contribute to our compensation fund.

Challenge

Our rules state that a firm that receives client money must have one or more accounts to hold this in. That seems to prevent using TPMAs, however by looking at requests on a case by case basis, we can assess each request.

How we helped

We are working with an increasing number of firms to explore how their authorisation can accommodate TPMA. By using conditions to address risks and concerns that previously prevented the idea, we can create a framework that gives protection to clients as well as flexibility for the business.

One licence has conditions that cover:

- making clients aware of the TPMA arrangement, specifically what protection they have under the agreement
- clients knowing they can terminate the agreement
- obtaining regular statements and completing reconciliations
- being clear the COLP and COFA are still responsible for monitoring and managing policies and procedures relating to the TPMA arrangement.

Results

Increasingly the use of TPMA highlights our willingness to consider new ways of working.

Our approach here balanced the desires of firm to try a new approach to help their business and clients, with our need to exercise the right amount of regulatory control.



Nottingham Trent University

Background

Nottingham Trent University were looking to create a new alternate business structure (ABS), so that student volunteers could provide legal services to members of the public.

The university already had an existing legal advice centre that was exempt from our authorisation, but wishes to enhance the number and types of activities it dealt with.

Challenge

Despite the existing centre, this new ABS application posed some different issues. These included:

- Professional indemnity insurance - the university had existing insurance which covered the activities of the advice centre but this did not meet our PII minimum terms for insurance
- Ownership – Nottingham Trent was considered as the owner of the new ABS and this may have meant each of its 20 Board of Governors having to submit applications
- Determining whether the Board of Governors also counted as material interest holders and therefore would require approval
- Determining whether the 160+ student volunteers would be considered “employees” of the applicant

How we helped

We talked to the university about our concerns and the potential solution of a waiver from the requirement to approve the Board as managers of an ABS owner (which is no longer a requirement in our rules following changes in November 2015).

We also discussed some of the day to day management arrangements, in particular around funding and making sure adequate confidentiality measures were in place. We also asked for assurances that a proper standard of service would be provided as this could be used by people who are vulnerable.

Conclusion

The ABS set up as a not for profit organisation undertaking pro-bono work in the community, whilst also providing an opportunity to students to widen their experience and develop their skills in a real life environment.

We have helped widening access to legal services where there is a clear demand for low cost advice and assistance, and providing a package of education and practical experience to students to better equip them for future roles.

