

Solicitors
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SRA Roadshows

September 2011

OFR arrives 6 October 2011

Are you prepared?

OFR



- Ten mandatory principles
- Outcomes
- Indicative Behaviours

5 things to do before 6 October



- Read 'OFR at a glance'
- Think about your business, and your clients
- Who will be your COLP and COFA?

5 things to do before 6 October cont'd



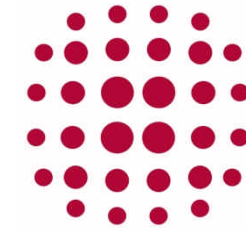
- First-tier complaints handling information requirements
- Change your notepad

Key dates



- mySRA initial activation code: valid until 14 October
- COLPs/COFAs: existing firms must nominate by 31 March 2012

What's changing at the SRA?



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- A new approach to authorisation
- A new approach to supervision
- A new approach to enforcement

ABS timescales

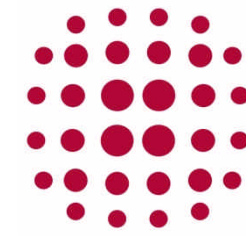


- December 2011: Designation as a licensing authority
- January/February 2012: First ABS licensed

Help is available



- Contact Centre
- Ethics Guidance Helpline
- SRA website



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The Handbook: top issues

Richard Collins
Director of Standards

Responsibilities



- Authorisation Rules 8.1
Responsibility for compliance
- Authorisation Rules 8.2
Suitable arrangements for compliance

COLPs and COFAs

- Authorisation Rules 8.5

Responsibilities

The individuals' appointments

The management structure

The Code of Conduct: structure



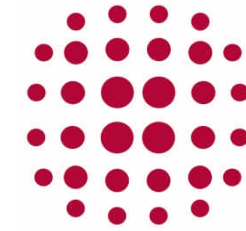
- Principles – all pervasive to the Handbook
- Outcomes – mandatory
- Indicative Behaviours – not mandatory

Chapter 3: Conflicts



- Significantly revised from 2007 Code
- The core provisions – Outcomes 3.4 and 3.5
- The exceptions – Outcomes 3.6 and 3.7
- Conveyancing
- Relationship with Chapter 4

Chapter 7: You and your business



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- Outsourcing reserved legal activities – Outcome 7.9
- Outsourcing legal activities – Outcome 7.10

Chapter 9: Fee sharing and referrals



- Need to review current arrangements to ensure outcomes are achieved
- Must consider provisions when entering into an agreement and in all transactions
- Provisions now apply to referrals between solicitors

Chapter 10: You and your regulator



Principle 7

- You must comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner
- OFR requires a new set of behaviours and change on both sides



SRA Risk Centre

How we will assess risk in firms

Andrew Garbutt
Director of Risk

Why assess risk?

- The SRA needs to assess the risks to its objectives
- The SRA has finite resources
- Risk assessment enables us to put those resources where the *real* risks are

Risk assessment



- Impact – *what* is the effect on our regulatory objectives
- Probability – how *likely* is the event/issue to occur

What do we use risk assessments for? (1)



- To determine the approach to supervision of all firms (from low intensity through to intense relationship management)
- Measures include:
 - size of firm
 - vulnerability of client base
 - holding client money

What do we use risk assessments for? (2)



- Used whenever we engage with a firm
- Risk categories are:
 - Fraud and dishonesty
 - Financial difficulties and instability
 - Operational
 - Competency, fitness and propriety

What do we use risk assessment for? (3)

- To assess events – eg reports from police, complaints from clients
- To identify trends which require greater regulatory scrutiny

Risk assessment is



- Not a substitute for judgement – all decisions will be taken on their merits
- Not a means of publicly identifying firms or individuals – assessments will remain confidential

Risk assessment and you



- Consistent, proportionate and transparent approach to risk
- Supervision will be proportionate to the level of risk a firm presents

Supervision in practice

Karen Nokes, Director of Supervision

Suchitra Hammond, Manager,

Large Firms

Omar Yaqub, Manager, City Firms

Our approach

Risk is central to our supervisory approach

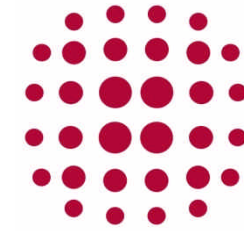
- High impact firms = relationship management
- Medium and low impact firms = desk-based engagement/oversight
- Constructive engagement
- Phased implementation

Relationship management



- Autumn 2010 – July 2011
- Comprised 19 firms – global, national, sole practitioners
- Engagement with firms on risk and risk mitigation

Relationship management in practice



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- Findings from the pilot:
 - understanding the sector
 - building relationships
 - working with firms to manage and mitigate risks
- Phased implementation from October 2011

Medium and low impact firms



- Pilot January – September 2011
- More than 100 medium and low impact firms involved
- Oversight, engagement and investigation
- Phased implementation from October 2011

Case study



- Report of a conflict of interest in a medium impact firm – event assessed as medium risk
- Supervisor assesses firm's risk profile
- Previous engagement records some weaknesses around systems within the firm
- Supervisor contacts the firm to discuss
- Regular engagement
- Issue resolved

Outcome-focused enforcement: what it means in practice

Carol Westrop - Head of Legal Policy

Jennifer Johnson - Head of Legal &
Enforcement

How will we enforce?



- Based on our published enforcement strategy – now being implemented
- Encourages constructive engagement with those who work with us to put things right but strong action where firms will not work with us, or where serious issues arise
- At heart: risk-based protection of public interest and credible deterrence

Enforcement tools



Our key enforcement tools:

- Obtaining documents and information
- Conditions on Practising Certificates, ownership and authorisation
- Regulatory Settlement Agreements
- Disciplinary sanctions
- Intervention

In practice ...

- We have successfully operated aspects of OFR for many years
- Achieving OFR is not as complicated or novel as some may think
- Not all breaches = enforcement action
- Co-operation is key

Case study 1

- Large regional firm: COFA finds out about unexplained withdrawals by senior solicitor
- Solicitor suspended by firm
- Investigation by SRA shows serious misconduct – creating dummy bills on probate files to disguise personal transfers
- Firm checks all files and makes good any losses to clients

Case study 1, cont'd



- SRA and COLP work together to agree compliance plan to ensure proper system of file checks and accounting systems in place
- Solicitor referred to SDT – condition in meantime imposed on her to control risk
- SDT finds her dishonest and strikes her off Roll

Case study 2

- Sole practitioner suffers ill health and is main carer for disabled wife
- Intelligence received that client calls not being returned and office closed
- Supervision arranges visit and advises on orderly close down as sole practitioner confirms he can no longer cope

Case study 2, cont'd

- However, suddenly admitted to hospital for possibly several weeks
- Several ongoing conveyancing matters due to complete imminently
- Matter referred for enforcement and urgent resolution to intervene into practice to protect clients' interests on grounds of ill health

Case study 2, cont'd



- Client files collected by SRA agents and practice monies vested in SRA
- Sole practitioner and family kept informed
- Accounts reconciled and intervention concludes
- Enforcement decides disciplinary action not necessary and sole practitioner retires from practice

THURSDAY



**October
2011**

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