

# The SRA and small firms

## *The SRA and small firms*

26 November 2014

An analysis of responses [#responses] to the discussion paper was published on 11 May 2015.

### *Introduction*

1.

When we launched our statement on regulatory reform [<https://www.sra.org.uk/sra/policy/regulation-reform.page>] in May 2014, we said that we wanted to make sure that we are regulating small firms proportionately, and that we are doing what we can to help them comply with our rules.

2.

We do not consider that this is about compromising the regulatory framework, but about identifying steps that we can take to make it easier for small firms to comply.

3.

It is acknowledged that the SRA has done much over the past four years to improve our working relationship with larger commercial firms. We need to ensure that we also have good engagement with sole practitioners and other small firms. It is sometimes suggested that many small firms believe that the SRA is indifferent to them, and that the practicalities of running a small firm are not properly taken into account.

4.

The reality is that small firms are an essential and valuable part of the regulated community in providing legal services to a wide range of consumers. Small firms make up a significant proportion of our regulated community. A number of our recent policy reforms have been aimed at making regulation more proportionate in ways that will assist smaller firms. These include increasing the amount of residual client balances that firms can give to charity without permission from the SRA<sup>1</sup> [#n1] and our series of Training for Tomorrow initiatives.<sup>2</sup> [#n2]

5.



Nevertheless, we accept that these perceptions of the SRA do exist and we must continually work to improve our communications with and our support for small firms.

6.

We hope that this discussion paper and the operational changes that we have made to coincide with its launch are seen as important steps towards improving our relationship with small firms. As part of the process we will also engage with a range of diversity groups as we continue to work to ensure that equality, diversity and inclusion are fully embedded into all of our activities.

7.

We have discussed the initiatives that we are launching today with a number of small practitioner groups.

8.

However, we would like your feedback. We would ask you to get involved by

visiting the new small firms section of the website and giving us feedback,  
contacting the new small firms helpline [<https://www.sra.org.uk/home/contact-us/>]  
with your regulatory questions and problems,  
responding to this discussion document with your further suggestions,  
joining the virtual reference group.

9.

For the purposes of this discussion paper we have adopted a definition of small firm as being a firm that is:

- a. a sole practitioner, or a firm with no more than four partners, members or directors; and
- b. has an annual turnover of no more than £200,000; and
- c. has no more than 10 PC holders.

10.

Appendix 1 shows the distribution of firm size by turnover. Our suggested definition means that around a third of providers<sup>3</sup> fall into this category. Our aim is not be exclusive – but to help us to identify the target audience and the measures that might most assist.

## *Our new initiatives*

11.

**SRA website** - We have created a section of our website specifically aimed at small firms. This includes news and links to guidance that will be of particular interest. We are aware that sole practitioners can have different issues from two-to-four partner firms, and the content will reflect that diversity.

12.

As part of the launch, we have created a 'regulatory starter pack' aimed at those setting up a new sole practice or small firm.

13.

We also intend to create a similar guidance pack to help smaller firms that need to close. We are aware that closing in an orderly fashion is a significant issue, particularly for sole practitioners.

14.

Over time, we will include a series of webinars to help small firms, and would value your feedback on the subjects that will be of particular interest.

15.

We will also explore ways in which we can combine with others (such as The Law Society and practitioner groups) to produce joint guidance on key issues.

16.

Professional Ethics Helpline [<https://www.sra.org.uk/home/contact-us/>] 4 [#n4] — our helpline will now have a dedicated small firms service. The Professional Ethics Helpline provides guidance to help solicitors comply with their professional obligations. The team also deals with written and email enquiries. Helpline staff provide guidance on issues such as conflict of interests, accounts rules, confidentiality and disclosure and questions relating to the SRA's Practice Framework Rules. Those ringing the number will be given the option to be put through to an advisor with specialist knowledge of regulatory issues affecting small firms. Many of these advisors have worked in smaller firms themselves.

17.



**Supervision** – we know that practitioners are busy, and that the type of one-to-one engagement available to large firms via Regulatory Management (RM) would not be practical. We have been told that what small firms would most value is:

- a. more advice available when they need it, and
- b. swifter resolution of any regulatory issues that do arise.

18.

Over the next few months, Supervision will be focusing on dealing with regulatory matters more quickly.

19.

In early 2015 Supervision will also create a dedicated Small Firms Team to help bring the learning from the RM programme to small firm issues. Details of this will be posted on the website and publicised via SRA Update e-newsletter [<https://www.sra.org.uk/sra/news/sra-update.page>] .

20.

**Authorisation** – we have already done much to make our authorisation processes quicker and simpler. One improvement, which is particularly likely to assist small firms, relates to applications for authorisation of a new firm following changes of constitution - for example, a sole practitioner or partnership becoming a limited company or a sole practice becoming a partnership. We have now introduced a target turnaround for 30 days for these applications.

21.

We will be launching a webinar aimed at the authorisation of small firms in early 2015 on the dedicated section of the website.

22.

We are also considering how to make Compliance Officer approval easier for small firms. One option would be to operate a system of deemed approval where the COLP/COFA is the sole practitioner or one of the lawyer managers in a two-four manager recognised body. Firms would notify us on 'mySRA' of any appointments to these roles that fall into those categories. This would save the need for a separate application and approval process. We would operate the same deemed approval system on any application for authorisation by a new small firm. We would run a separate formal consultation if we decided to introduce these or similar changes. We would also need to consider whether the relaxation of the

rules would be subject to parameters in terms of numbers of fee earners and size of turnover.

### *Small firms reference groups*

23.

We want to do more to ensure that thinking about how our regulation affects sole practitioners and other small firms is embedded into all of our operations and our regulatory reform programme.

24.

We are inviting you to join a virtual reference group to assist us in that process. These groups will be able to discuss ongoing issues and early thinking on policy initiatives via an email forum. There will be two groups: sole practitioners; and small practices with two to four partners or directors.

25.

We have tried to make the groups as user friendly as possible. Members will not have to attend meetings or respond to every issue. You can decide the extent of your involvement, and you will be able to contribute to the issues that interest you via email.

26.

Joining the reference groups is easy. Simply visit the small firms webpage and click on the link. You will be asked to state whether you want to join the sole practitioner or the small practice group and to tell us about any particular areas of expertise and interest.

### *Separate but related work streams*

27.

We are continuing with our implementation of the Independent Comparative Case Review and have recently launched our new Equality, Diversity and Inclusion Strategy [<https://www.sra.org.uk/sra/equality-diversity/strategy/edi-strategy.page>]

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28.

In 2012, the Department for Business Innovation & Skills (BIS) announced a package of measures to drive greater efficiency, accountability and transparency in the interaction between regulators and those they regulate (in particular small firms) as part of the Government's strategy to make the



UK the best place to start, finance and grow a business. This included work to address any shortcomings in regulators' appeals mechanisms through the appointment of a Small Business Appeals Champion by relevant non-economic regulators. Each regulator would appoint a Champion whose role would be to scrutinise and report annually on the effectiveness of the regulator's procedures for complaints and appeals, but would have no role in intervening in individual cases. Whilst it now seems unlikely that this measure will apply formally to the SRA, we are committed to its principles and will continue discussions with BIS, the Legal Services Board and others as it moves towards implementation.

29.

**Professional Indemnity Insurance (PII) and accountants reports** - We know that obtaining PII at a reasonable cost is a serious problem for some small firms. Following our call for evidence,<sup>5</sup> we are considering further proposals for more proportionate PII requirements which we hope to consult on in early 2015. We are also continuing to look at ways to make our requirements in relation to obtaining and delivering accountants reports to the SRA.

30.

**The SRA Handbook** - We will be reviewing the Handbook throughout 2015 with a view to implementing changes in 2016. The aim will be to reduce regulatory burdens, and to make the Handbook simpler and easier to use. We will specifically consider how to make those improvements work for small firms.

### *Next steps*

31.

By April 2015 we will publish a paper summarising the progress on the measures we have described, the feedback to this discussion paper, and details of any further steps that we will take as a result.

32.

We will survey small firms in late 2015 to evaluate our progress.

### *Discussion questions*

Although this discussion document is primarily aimed at small firms, we are also keen to hear from consumer groups and from any other SRA regulated firms or individuals that wish to contribute.

## Questions

- 1. Do you have any comments on our definition of a small firm?
- 2. Is the new small firms section of the website helpful? How can it be further improved?
- 3. What topics would you particularly like covered via webinars?
- 4. Do you anticipate using or have you used the new small firms service on the helpline?
- 5. Are there any other ways that supervision can better engage with small firms?
- 6. Do you agree that deemed approval of COLP/COFAs would assist small firms?
- 7. Are there any other ways in which we can improve our authorisation process for small firms?
- 8. What other suggestions do you have for ways in which we can improve our communications with small firms and assist them to comply with regulation?

## Appendix 1

Recognised bodies and recognised sole practitioners with 4 managers (partners, directors or members) or fewer based on 2013-4 reported turnover<sup>6</sup> [#n6]

0.01 - £200K	1 - 10 Solicitors	% of all firms
Sole Practitioner	2170	21%
Partnership	431	4%
Limited Liability Partnership	177	2%
Company Limited by Shares	818	8%
Unlimited Company	6	0%
<b>Grand Total</b>	<b>3602</b>	<b>34%</b>

£200K - £400K	1 - 10 Solicitors	% of all firms
Sole Practitioner	492	5%
Partnership	528	5%
Limited Liability Partnership	150	1%

Company Limited by Shares	424	4%
Unlimited Company	2	0%
<b>Grand Total</b>	<b>1596</b>	<b>15%</b>

£400K - £600K	1 - 10 Solicitors	% of all firms
Sole Practitioner	129	1%
Partnership	391	4%
Limited Liability Partnership	114	1%
Company Limited by Shares	275	3%
<b>Grand Total</b>	<b>909</b>	<b>9%</b>

Over £600K	1 - 10 Solicitors	% of all firms
Sole Practitioner	71	1%
Partnership	568	5%
Limited Liability Partnership	297	3%
Company Limited by Shares	509	5%
Unlimited Company	2	0%
<b>Grand Total</b>	<b>1447</b>	<b>14%</b>

#### Notes

1. [www.sra.org.uk/sra/consultations/consultation-listing/residual-client-balances](http://www.sra.org.uk/sra/consultations/consultation-listing/residual-client-balances)  
[<https://www.sra.org.uk/sra/consultations/consultation-listing/residual-client-balances/>]
2. [www.sra.org.uk/sra/consultations/consultation-listing/t4t-continuing-competence.page](http://www.sra.org.uk/sra/consultations/consultation-listing/t4t-continuing-competence.page)  
[<https://www.sra.org.uk/sra/consultations/consultation-listing/t4t-continuing-competence.page>]
3. Excluding ABSs and firms that report 'nil' turnover
4. Inside the UK, 09.00 to 17.00, Monday to Friday
5. [www.sra.org.uk/sra/consultations/client-protection-call-evidence.page](http://www.sra.org.uk/sra/consultations/client-protection-call-evidence.page) [<https://www.sra.org.uk/sra/consultations/consultation-listing/client-protection-call-evidence/>]
6. Excludes zero or 'null' turnover reports.



## *Analysis of responses to the discussion paper*

11 May 2015

### *Introduction*

1.

This summary report follows the SRA's recent small firms discussion paper where we discussed our early initiatives and proposals for the future. In the discussion paper we also sought comments on our proposed definition of a small firm.

### *Small firm initiatives*

2.

SRA website - we referred to the section of our website which had been created specifically aimed at small firms. The web page includes news and links to guidance that will be of particular interest. Practitioners can subscribe to email alerts to help keep up with changes. We noted that sole practitioners can have different issues from two-to-four partner firms, and the content will reflect that diversity. As part of the launch, we have created a 'regulatory starter pack' aimed at those setting up a new sole practice or small firm.

3.

Professional Ethics Helpline – the Ethics helpline was modified to incorporate a dedicated small firms service. Practitioners calling the helpline are given the option to be put through to an advisor with specialist knowledge of regulatory issues affecting small firms.

4.

Supervision – we acknowledged that practitioners are busy, and that the type of one-to-one engagement available to large firms via Regulatory Management (RM) would not be practical. We discussed that, through Supervision, small firms would be able to:

- a. access advice when they need it, and
- b. see a swifter resolution of any regulatory issues that arise.

It was noted that a dedicated supervision team would be created to support engagement with small firms.

5.

Authorisation – we noted the work that had been done to make our authorisation processes quicker and simpler. We also discussed how we could make Compliance Officer approval easier for small firms. The option discussed would be to operate a system of deemed approval where the COLP/COFA is the sole practitioner or one of the lawyer managers in a two-four manager recognised body.

6.

Small firms reference group - we noted that it was important that more was done by the SRA to ensure that thinking about how our regulation affects sole practitioners and other small firms was embedded into all of our operations and our regulatory reform programme. Practitioners were invited to join a virtual reference group (one for sole practitioners and another for firms with 2-4 partners) to assist us in that process.

7.

Definition of a small firm - in the discussion paper we set out our proposed definition of a small firm and noted that the suggested definition meant that around a third of providers fell into this category.

- a. a sole practitioner, or a firm with no more than four partners, members or directors; and
- b. has an annual turnover of no more than £200,000; and
- c. has no more than 10 PC holders.

8.

Questions - in responding to the discussion paper we asked stakeholder to provide responses to/comment on:

Our definition of a small firm

Whether the new small firms section of the website was helpful? How could it be further improved?

What topics would they particularly like covered via webinars?

Did they anticipate using or have you used the new small firms service on the helpline?

Were there any other ways that supervision could better engage with small firms?

Did they agree that deemed approval of COLP/COFAs would assist small firms?

Were there any other ways in which we could improve our authorisation process for small firms?

What other suggestions do you have for ways in which we can improve our communications with small firms and assist them to comply with regulation

### *Responses received*

9.

14 responses were received in total which included substantive responses from the Law Society and the Sole Practitioners Group. All respondents welcomed the initiatives launched and the proposal for a small firms team in Supervision and noted that the initiatives were excellent foundations for building upon good communication with small firms. The proposal to allow deemed approval of COLP/COFA in certain circumstances in small firms was universally supported, though there were suggestions for a review of the proposed definition of a small firm.

### *Overview of responses and SRA response*

10.

Definition of a small firm - a number of respondents considered that the proposed maximum turnover figure of £200,000 needed to be increased and some queried whether the proposed limit number of PC holders added value.

11.

Suggestions were made for the number of partners/members/directors to be increased to 5 and reference to the number of fee earners to be amended to refer to employees.

### *SRA response*

12.

We have reviewed our data to inform our definition. We have decided that a small firm will be defined as a sole practitioner or a firm with no more than four partners, members or directors, which has an annual turnover of no more than £400,000. We will not include any limit on the number of PC holders, as in practice turnover operates as the appropriate restriction.

13.



**Web section for small firms** - respondents felt that this was a positive step in helping small firms in navigating their way around the SRA website and demonstrated that the SRA had listened to feedback given through other forums. Respondents felt that the 'regulatory starter pack' was a step in the right direction and welcomed further information through, for example, 'a regulatory firm closure pack'. The Sole Practitioners Group commented "...The new small firms section of the website is enormously helpful...".

*SRA response*

14.

We are pleased that practitioners are finding the material on the section of SRA website helpful. We will continue to refresh material and upload new content based on feedback that we receive from practitioners. We will also gather information on common themes that are highlighted through calls received by our Professional Ethics team and issues that are reported to the SRA.

15.

**Webinars** - there was a call for webinars to cover issues such as firm closure, SRA Accounts Rules, PII and Compensation Fund changes, succession/contingency planning, money laundering and due diligence, consumer credit changes, COLPs/COFAs and material breaches (what does a material breach look like?), bogus firms, mergers and acquisitions - authorisation and supervision requirements.

*SRA response*

16.

Working with all areas of the SRA we will look to develop a series of webinars based on suggestions that have been made. We will also work closely with the Law Society and other practitioner groups to support the development of any material which might help small firms and sole practitioners.

17.

**Professional ethics helpline** - the initiative was endorsed and respondents confirmed that the service would be used when required.

*SRA response*

18.



Of all calls received on the helpline, 15% choose the small firms option. We will continue to operate the option for small firms and sole practitioners to speak to dedicated advisors on the Professional Ethics helpline and, as mentioned previously, we will gather feedback on common themes arising to inform the development of webinars and other material.

19.

**Supervision** - there was a concern that much of Supervision's focus had been on engaging with large and city firms and ABSs. A greater focus was needed on understanding the pressures faced by a small firm. Having a dedicated team would encourage small firms to engage with the SRA on issues earlier. The Sole Practitioners Group noted "... A quicker and more efficient resolution of supervisory issues would also be welcomed. Much worry and stress has been caused in the past by long-outstanding regulatory issues awaiting resolution and further guidance, which has left sole practitioners in 'limbo', unable to focus properly upon their fee-earning work whilst regulatory matters are hanging over them....".

*SRA response*

20.

We will be setting up a small firms team to operate in Supervision with staff that have particular expertise of working in small firms or knowledge of the issues that impact on small firms running a successful firm. Early contact with this team by small firms that may be experiencing regulatory problems or other issues will improve outcomes for all and will help prevent matters from escalating.

21.

**COLP/COFA deemed approval process** - there was universal approval of the proposal.

*SRA response*

22.

This initiative is being taken forward through the SRA's continued review and simplification of its regulatory arrangements. A separate consultation [<https://www.sra.org.uk/sra/consultations/consultation-listing/regulatory-reform-programme/>] has been launched which discusses the proposal and set out changes to the SRA Handbook needed to give effect to the change.

23.



**Improving the authorisation process** - respondents felt that though the online system (mySRA) was now more helpful further work could be done to improve its accessibility. There was also a suggestion that Authorisation consider further the information that was gathered from firms and avoid duplication as this resulted in time being spent unnecessarily.

*SRA response*

24.

Feedback received has been provided to our Authorisation team based on the comments made by respondents. We will be asking Authorisation to engage with practitioners that have joined the virtual reference groups to discuss/seek views on any operational changes that are likely to benefit/impact small firms or sole practitioners.

25.

**Other suggestions** - respondents felt that more could be done to engage with small firms and sole practitioners and where changes were being made to processes and regulatory arrangements to use the experiences of small firms to help define proposed changes. The Law Society and the Sole Practitioners Group confirmed that they would support working with the SRA as it developed further initiatives and engagement with small firms.

*SRA response*

26.

We will continue to engage with the Law Society including their Ethnic Minority Lawyers Division, the Sole Practitioners Group and other groups, such as LawCare. Those that have joined the virtual reference groups will be called upon to inform policy development and operational changes that will impact on sole practitioners and small firms. Membership of those groups (sole practitioners and 2-4 partner/manager firms) remains open and practitioners are invited to join via the link on the small firms webpage.

27.

We will be considering further initiatives and will continue to engage with small firms and a wide range of representative groups through informal discussions and forums to discuss these and other possible initiative.