

Regulating small firms

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This guide offers you information on issues specific to smaller businesses, including, new regulatory developments and how these can benefit small firms and updates on the key regulatory issues affecting small firms.

Download: Regulating small firms (PDF 12 pages, 696KB)

[\[globalassets/documents/solicitors/freedom-in-practice/regulating-small-firms.pdf?version=49929a\]](#)

Introduction

For many smaller businesses, meeting regulatory requirements can seem daunting. We are committed to working with the firms we regulate to make sure that everyone is able to comply in a way that is appropriate for their size.

We do not want to hand down ever more prescriptive rules to tell you how to do business. Instead we want to work with you to identify ways of making compliance easier. This guide offers you information on issues specific to smaller businesses, including:

- New regulatory developments and how these can benefit small firms
- Updates on the key regulatory issues affecting small firms

Earlier this year, we published our Risk Outlook, which focused on key priority risk areas such as standards of service, money laundering, bogus firms and cybercrime. However, we also understand that smaller businesses need more tailored and targeted information.

To help deliver this we have a dedicated small firms area on our website [\[smallfirms\]](#), a professional ethics helpline and a team of experts to offer help and advice on compliance issues.

This report offers further guidance by looking at topical issues and risk management from a small firm perspective. We hope it provides insight into the issues that matter to you.

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Set for success

We are working on reforming our regulatory approach, to remove barriers and to lift the burden on business. We want to make it easier for you to get on with what you do best: meeting your clients' needs.

Here are some of the changes we have already made.

Simplified authorisation processes

Sole practitioners and lawyer managers at firms with a turnover of less than £600,000 are now automatically deemed suitable for COLP and COFA roles. There is now no need for a separate application – all you need to do is notify us.

We have also introduced other changes, such as streamlined application forms if you want to change legal entity – from a sole practice to a limited company, for example.

Getting authorised

Ms A and I practised as solicitors with separate firms, but had known for a while that we wanted to start our own firm.

We visited the SRA's website to find out how to become authorised. We found all the necessary forms we needed, as well as what additional information we need to provide.

We sent these forms to the SRA, along with our business plan and risk assessment documents. Jo, an authorisation officer with the SRA, contacted us to discuss our application. Jo asked for further details about our experience as a COLP and COFA, information security, and business contingency planning.

Jo was aware that we needed to be authorised quickly to allow us to bid for legal aid contracts. She took this into consideration and the firm was approved in only three weeks. The SRA's service level agreement is actually three months.

My advice to other solicitors looking to start their own firm is to prepare their business plans and risk assessments thoroughly – this information was very helpful in making our applications.

Feedback on our authorisation process from a small firm

Continuing competence

You are no longer required to log a certain number of CPD points or hours of training. Instead you can maintain your competence through training and development in a way that suits you.

To find out more about our new approach to continuing competence, our continuing competence web pages [[solicitors/resources/cpd-accreditation/](#)] include a toolkit and a guide to new CPD requirements.

You told us that case studies can be really useful for training. This year, our Risk Outlook includes more case studies which bring to life the risks we care about and include tips on how to manage them.

Training the new generation of solicitors

Have you considered taking on a legal apprentice? Our new routes to qualification allow young people to train as solicitors without attending university. A small firm can be the perfect environment for an apprentice to gain the skills and knowledge needed to be a successful solicitor, while adding value to your business.

Accounts rules changes

It's now easier to comply with our accounts rules, as we have removed the requirement for firms who hold client money to submit an accountant's report to us, unless the report is

qualified.

If the only client money you hold is from the Legal Aid Agency, or your average client balance is under £10,000 and the maximum is below £250,000, you no longer need to obtain an accountant's report.

We have published guidance on completing the annual accountant's report form [\[solicitors/guidance/accountant-report-exemption-obtain-one/\]](#) following these changes.

Tailored support for small firms

We now have a dedicated small firms section on our website [\[smallfirms\]](#) which brings together relevant information and resources.

This sits alongside our team of regulatory supervisors focused on helping small firms [\[solicitors/resources/small-firms/small-firms/\]](#) with regulatory issues and compliance.

Finally, we have a group of solicitors that help us to consider what matters to small firms and to put in place new initiatives and reforms. The group even 'road test' new forms and systems for us, to make sure that we are meeting your needs. It's a virtual group and you are welcome to join by registering your details on our website [\[https://form.sra.org.uk/s3/sfgroup\]](https://form.sra.org.uk/s3/sfgroup).

The flexibility to innovate

We are authorising more and more new types of firm, from those offering services online to those with non-lawyer management and ownership. These are not just new firms; many are established businesses who want to try something new.

We have also recently launched a new initiative called SRA Innovate [\[solicitors/innovate/sra-innovate/\]](#), which includes online material with dedicated support for those of you with an interest in new ideas and ways of working.

Information on key regulatory issues

Each year we publish our Risk Outlook to explain the priority risks that matter to us.

This essential report explains why each risk matters, how we will use our regulation to manage the risk, and draws together information about how to manage it in your business.

The Risk Outlook also has an accompanying online tool called priority risks which [\[solicitors/innovate/sra-innovate/\]](#) summarises the key areas and offers useful information including trends, case studies and tips on how to manage risk.

We will be updating the tool twice a year, so it's a great, up-to-date resource. This can be really useful for smaller firms with less time on their hands.

Here we have put together a guide to some of the issues important to small firms.

- Keeping up to date with compliance requirements
- Protecting your clients' information
- Safeguarding your business

Keeping up to date with your compliance requirements

The legal services market is constantly evolving, and your firm is likely to evolve too. Where possible, we want to leave it to you as to how you structure your firm and deliver services. However, there are certain key changes that you either need to notify us of or seek authorisation for.

Other changes such as phone numbers, trading names, branch closures and new starters can also be notified through mySRA [\[mysra/\]](#).

For all of these issues, contact us [\[risk/risk-resources/regulating-small-firms/\]](#) so we can talk you through the process.

Please remember to notify us using mySRA [\[mysra/\]](#) if you are:

- Changing your address
- Opening a new branch office
- Changing the name of your firm
- Changing solicitor managers – leaving or joining
- Changing training principal or someone authorised to supervise – leaving or joining

Some of the most common compliance enquiries we receive from small firms are:

- What to do when a key member of staff leaves the firm – e.g. a COLP or COFA
- What to do if your partnership now has only one partner – so you need to become a sole practitioner
- What to do if you have missed a deadline – such as renewing a practising certificate or informing us about your professional indemnity insurance

Converting to a sole practice after two retirements

I practised as a partner in a well-established firm, until the other two partners decided to retire. This meant we could no longer operate as a partnership, and needed recognition as a sole practice and the personal status changes that come with that.

After getting in touch with the SRA to find out how to do this, I completed the relevant forms and sent these in along with the additional information the application and guidance asked for.

Soon after, I was contact by Pete, an authorisation officer who asked a few questions about the applications, but required very little further information. The applications were approved within a reasonable timeframe.

Overall, I was very satisfied with the process. Pete was knowledgeable and helpful, and I was particularly impressed with how quickly he responded to my queries.

My advice to other solicitors is to make sure you take the time and effort to prepare your application thoroughly. Try to provide all the supporting information and documentation with the initial application. This will help avoid delays while you deal with requests for further

information. Also, do not be afraid to ask the SRA for help!

Feedback from a sole practitioner

Protecting your clients' information

We know cybercrime is a hot topic for all businesses, and small law firms are no exception. But the risk of cybercrime and other information breaches can be mitigated using simple steps.

Here are five common ways that cybercrime takes place and tips on how to avoid the pitfalls.

Email redirection

- Hackers can intercept emails between parties, often advising of change of bank details
- You receive an email asking you to send funds to client or other firm's new account, or
- Client receives instruction by email to send funds to same firm/organisation but different account number and or bank
- Usually property transactions

Malware

- Downloaded onto your computer through links in emails or on websites
- Instructs your computer to access information, give away data or encrypt

Vishing

- Telephone scam impersonating someone from your bank, the police, a regulator, or another firm
- They try to obtain your password details or even get you to transfer money to an account whilst on the telephone
- Stories include bank fraud department or police – saying your account is under attack. May have done research on you or your firm to make the call convincing
- Can use numerous stooges (other people join call)
- Can suggest you call back (they stay on the line waiting)
- Can even replicate genuine caller

Phishing

- Email sent to you asking you to do something, such as call a number or change a password
- Can purport to be from your bank, police, regulator other solicitor or client
- Can be extremely convincing
- Replicates genuine individual or organisation
- Designed to make you part with money or data

Mandate fraud

- Setting up new or changing existing standing orders so funds sent elsewhere
- Can purport to be a current supplier or a new one
- Often undetected for sometime
- Can be used for one-off invoicing

Simple but effective tips

- Keep passwords secure and not easily guessable
- Keep software security updated
- Train staff including non-fee earners such as finance department and administrators
- Set up a crisis-management process in your firm – does not have to be over complex, just ‘who does what’ if something happens
- If you are a victim – report immediately to bank, police, insurer and regulator
- If a client or another firm want to change bank details follow all usual steps –including ID verification – no shortcuts – do not rely on an email or phone call

If anything does not feel right our advice is: If in doubt - stop and check.

Where to go for more information

Read our priority risk summary and case studies around information security online [[risk/outlook/risk-outlook-2020-21/information-and-cyber-security/](#)].

Take a look at the Information Commissioner’s Office’s IT security top tips [<https://ico.org.uk/for-organisations/it-security-top-tips/>]. It includes a section on what to include in staff training.

The Government’s guide Cyber security: advice for small businesses [<https://www.gov.uk/government/publications/cyber-security-what-small-businesses-need-to-know>] gives some simple tips on planning, implementing and reviewing your cyber security.

The Law Society also offers free online cyber security training for legal and accountancy professionals, developed with the Government and the ICAEW.

Safeguarding your business

We have seen cases where clients of small firms have been harmed by poor management of the firm, particularly in terms of vetting and supervision of staff and poor management of closures.

Effective supervision of staff

From partners and fee-earners to administrators or consultants, knowledge of how your employees operate and responsibilities is an essential part of risk management. Issues affecting small firms include:

- Access to the client and office accounts – deciding who has access and ongoing monitoring
- Checking credentials of new staff
- A principal having sufficient involvement in the firm to be aware of clear signs of wrong doing

Solicitors’ Disciplinary Tribunal on the responsibilities of management

The Solicitors’ Disciplinary Tribunal regularly states that managing a law firm is not a position to be taken lightly.

This is reflected in fines and suspensions that have been applied to managers who have failed to spot clear serious breaches of the SRA Accounts Rules by colleagues, such as moving money between the client and office accounts.

Effective management of succession

We get enquiries from small firms considering changes such as retirement, mergers or selling their firm.

In order to manage these kind of eventualities, you have to have the flexibility to plan for the future. You can do this in whatever way suits you; we do not specify any business planning requirements for law firms. All we ask is that you ensure you comply with our regulation when making changes.

Issues that could potentially pose a risk to clients if not managed well, include:

- Effective storage of archived files
- Due diligence when undertaking a merger or sale
- Managing a closure so that the impact on clients is minimised

Our website has a new firm starter pack [\[solicitors/guidance/sole-practitioners-small-firms-regulatory-starter-pack/\]](#), which provides some points to consider around succession planning for small firms.

The risks arising from poor archiving

We have seen cases where:

- Firms were no longer able to continue to pay storage warehouses for the storage of their files
- Solicitors stored old files in unsuitable places following the closure of their firms
- Solicitors, having failed to deal with the files properly, left their families to sort it out after they died

Clearly, such cases put client confidentiality at risk, as well as raising data protection issues.

If you do have shortcomings in your firm's storage arrangements, you could consider returning files back to former clients if possible, destroying old files (within regulatory and legal constraints), and scanning and storing the documents in electronic form.

Resources for small firms

Our website has more detailed information for small firms on all aspects of our regulation.

New applicant guide to SRA authorisation [\[solicitors/firm-based-authorisation/authorisation-recognition/\]](#)

Our dedicated small firms web pages [\[smallfirms\]](#)

Our discussion paper on our approach to regulating small firms [\[sra/consultations/discussion-papers/small-firms/\]](#)

Get help from the SRA on a regulatory issue [\[home/contact-us/\]](#)