

Risk Outlook

Autumn update 2017

In July 2017, we published our fifth annual Risk Outlook. Throughout the year we gather and analyse information about each risk and look for emerging trends. This update reflects what we are seeing in the market and will help law firms manage risk in their business.

We have updated our priority risks [\[risk/outlook/priority-risks/\]](#) and provide an at-a-glance version of the updates below.

Open all [\[#\]](#)

Access to legal services

We know there is significant unmet legal need as set out in our report Improving access – tackling unmet legal need [\[risk/risk-resources/legal-needs/\]](#). Barriers people face when deciding whether to use a lawyer include understanding how much services cost and whether their problem is even solvable. The Legal Services Consumer Panel Tracker Survey 2017

[\[http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/How_consumers_are_choosing_Final_2017.pdf\]](http://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/How_consumers_are_choosing_Final_2017.pdf) reports that only 27% of consumers shop around for legal services, and only 4% use quality marks to inform their choice.

To improve the amount and quality of information available, we are consulting on publishing more of the regulatory data we hold about the solicitors and firms we regulate. Our Better information, more choice consultation [\[sra/consultations/consultation-listing/litf-better-information-consultation/\]](#) also proposes that should firms provide a range of clear and accessible information to prospective clients. This could include details of prices, services offered and information on regulatory protection. Read our consultation and respond by 20 December 2017 [\[http://form.sra.org.uk/s3/better-information/\]](http://form.sra.org.uk/s3/better-information/).

Standards of service

Excellent complaints handling is a hallmark of a good professional service. We will soon be publishing independent research about the effectiveness of solicitors' first tier complaints processes.

We remain concerned about the service provided by some solicitors involved in claims for mis-sold payment protection insurance, road traffic personal injury, and holiday sickness.

While many holiday sickness claims are genuine, we believe that some are being submitted by solicitors without proper analysis of the evidence. We are investigating some firms for issues including improper referrals from claims management companies and failing to verify cases. Our warning notice [\[solicitors/guidance/holiday-sickness-claims/\]](#) will help everyone understand their obligations.

We continue to act where solicitor conduct falls seriously short of the professional standards we set. A recent case we brought before the Solicitors Disciplinary Tribunal resulted in a solicitor being struck off and fined after charging fees described as "manifestly excessive".

Information security

The General Data Protection Regulation (GDPR) comes into force in May 2018. The Information Commissioner's Office has launched an advice line [\[https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2017/10/new-data-protection-advice-service-aimed-at-small-organisations-preparing-for-the-general-data-protection-regulation/\]](https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2017/10/new-data-protection-advice-service-aimed-at-small-organisations-preparing-for-the-general-data-protection-regulation/) aimed at small businesses preparing for GDPR. They have also updated their twelve steps to take now guidance [\[https://ico.org.uk/for-organisations/data-protection-reform/\]](https://ico.org.uk/for-organisations/data-protection-reform/).

Failing to take reasonable steps to protect information is a serious matter for us too. In September 2017, the Solicitors Disciplinary Tribunal approved fines of £15,001 for a solicitor and £20,000 for their firm after the solicitor disclosed a woman's address to her husband, who had a history of violence against her and was subject to a restraining order. This case demonstrates the importance of having robust systems and controls in place when dealing with personal data.

Protecting client money

We have seen a substantial increase in reports of bogus firms copying the identity of real firms, often with the intent to steal client money. Reports have risen from around 70 per quarter to 170 in two years.

As the Risk Outlook 2017 explains, email modification fraud is also a significant threat to client money. We are

beginning to see some early signs that firms and consumers are learning to identify email frauds. This is still a serious threat, but the numbers are stabilising, with 47 reports to us in the first three quarters of 2017, compared to 59 for the same period last year. This could also be down to under-reporting. We remind all firms that any loss of client information or money because of email modification fraud should be reported to us promptly.

Where solicitors or their staff act dishonestly with client money, the consequences are severe. The Solicitors Disciplinary Tribunal ordered a solicitor struck off the Roll in October 2017 after an employee used the firm to carry out multiple mortgage frauds leaving a £2.6m shortage on the client account. The solicitor, a sole director, had not sought personal or professional references from the recruit.

Anti-money laundering

The National Risk Assessment of Money Laundering and Terrorist Financing 2017

[\[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf\]](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web.pdf) reports that the legal sector remains at high risk of exploitation for money laundering. The level of risk varies by type of legal transaction, with trust and company formation, conveyancing, and misuse of client accounts being assessed as the biggest risks.

According to the latest National Crime Agency Suspicious Activity Reports Annual Report

[\[https://nationalcrimeagency.gov.uk/who-we-are/publications/112-suspicious-activity-reports-annual-report-2017/file\]](https://nationalcrimeagency.gov.uk/who-we-are/publications/112-suspicious-activity-reports-annual-report-2017/file), overall the number of reports has gone up by 10 percent in 2016. But legal sector submissions have reduced by almost 10 percent, accounting for less than 0.8% of all reports, down from one percent in 2015. The government has specifically targeted its 'Flag it [\[https://flagitup.campaign.gov.uk/\]](https://flagitup.campaign.gov.uk/) up' campaign at helping solicitors and accountants identify potential money laundering signs.

HM Treasury have also recently expanded their enforcement powers under sanctions legislation

[\[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645280/financial_sanctions_guidance_august_2017.pdf\]](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645280/financial_sanctions_guidance_august_2017.pdf), and released a quick guide

[\[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/649908/OFSI_quick_guide_flyer.pdf\]](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/649908/OFSI_quick_guide_flyer.pdf).

The Risk Outlook 2017 outlined updated obligations for solicitors under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

[\[http://www.legislation.gov.uk/uk/si/2017/692/made\]](http://www.legislation.gov.uk/uk/si/2017/692/made).

We will soon be asking solicitors and firms to tell us about their compliance with the new regulations. Please look out for further information about this shortly.

Investment schemes

We continue to be concerned about the small number of solicitors involved in the promotion of questionable investment schemes. Failed schemes can lead to members of the public losing some or all of their savings or pension funds. It is important that any potential investor receives independent advice.

Our warning notices for solicitors [\[solicitors/guidance/investment-schemes-including-conveyancing/\]](https://www.solicitors.org/guidance/investment-schemes-including-conveyancing/) and advice for the general public [\[consumers/problems/fraud-dishonesty/property-schemes/\]](https://www.solicitors.org/consumers/problems/fraud-dishonesty/property-schemes/) are useful tools for avoiding questionable schemes.

Several law firms and solicitors have been referred to the Solicitors Disciplinary Tribunal for involvement in dubious investment schemes. This includes a case where a firm received a record fine of £500,000

[\[https://www.solicitorsdisciplinarytribunal.org.uk/sites/default/files-sdt/Tribunal Judgment 10.11.17.pdf\]](https://www.solicitorsdisciplinarytribunal.org.uk/sites/default/files-sdt/Tribunal%20Judgment%2010.11.17.pdf) for failing to prevent a partner from using their client account to facilitate a dubious investment scheme.

The Solicitors Disciplinary Tribunal also issued fines of £50,000 for a firm and £10,000 for several solicitors individually in relation to a dubious investment scheme. The firm had provided banking services through its client account while acting in a complex transaction that the firm did not fully understand.

In another case, we successfully appealed sanctions against two solicitors involved in a case where investors lost £20m, extending their suspension from practice from 12 months to three years.

Independence and integrity

Solicitors must meet high professional standards, and this includes acting with integrity and independence.

We have issued a warning notice [\[solicitors/guidance/tax-avoidance-duties/\]](https://www.solicitors.org/guidance/tax-avoidance-duties/) about involvement in tax avoidance. The Government intends to penalise professionals who advise on schemes that HMRC later defeats.

In June 2017, a solicitor was ordered struck from the Roll by the Solicitors Disciplinary Tribunal [https://www.solicitorstribunal.org.uk/sites/default/files-sdt/11563.2016.Chan_.pdf] for breaches that included facilitating tax avoidance schemes that he knew had previously led to penalties from HMRC.

Diversity in the legal profession

We commissioned University of Leeds and Newcastle University Business School to analyse our data to understand diversity trends in the profession over the last 30 years [[/sra/how-we-work/reports/diversity-legal-profession/](#)]. Findings include a significant increase in the number of female, and Black, Asian and minority ethnic new entrants to the profession. Looking at career progression, more Black, Asian and minority ethnic males are becoming partners, especially Asian males, but these are often in smaller firms. Men remain more likely than women to become partners, particularly in large firms.

We have also published our own review of how firms promote diversity [[/sra/how-we-work/reports/unlocking-benefits-diversity/](#)]. We have found good examples of firms making progress in promoting gender equality. Steps are being taken to create a more diverse recruitment pipeline, develop an inclusive culture, and promote clear, fair and transparent progression processes. The report includes many simple steps firms can take to build and maintain an inclusive culture.

Following our firm diversity data collection earlier this year, we will be updating our Diversity tool [[/solicitors/resources/diversity-toolkit/law-firm-diversity-tool/](#)] in early 2018. We will also be publishing a report focusing on the business case for increased diversity in legal services.