



# **SRA Handbook Checklist**

## **Compliance Officers for Legal Practice**

**April 2014**

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## Contents

|   |    |
|---|----|
| Contents .....  | 2  |
| SRA Principles.....   | 3  |
| SRA Code of Conduct .....   | 4  |
| Client care.....  | 4  |
| Promoting equality and diversity .....  | 13 |
| Conflicts of interest .....   | 14 |
| Confidentiality .....   | 16 |
| Courts, litigation and advocacy.....  | 18 |
| Managing your firm .....  | 20 |
| Publicity .....   | 28 |
| Referral of clients to the firm.....  | 30 |
| Making reports to the SRA and co-operating with enquiries .....                       | 33 |
| Dealing with third parties.....   | 38 |
| SRA Authorisation Rules (where an application to the SRA is not being made).....      | 41 |
| Requirement.....  | 41 |
| SRA Practice Framework Rules (where an application to the SRA is not being made)..... | 43 |
| Requirement.....  | 43 |
| The rest!.....  | 46 |

## SRA Principles

There's nothing in the SRA Principles that would surprise a lawyer and yet just about every firm which appears before the Solicitors Disciplinary Tribunal is alleged to have breached one or more of them. So what goes wrong? Well, for a start, approaching the principles with a lawyer's mindset can, ironically, be dangerous. When deciding how to deal with a situation where the principles come into play it pays to be a little wary of anyone who has to construct an argument to get their point across. Think carefully about how the SRA and the Tribunal judges, having heard from an unhappy client or other disgruntled party, would apply the principles to your scenario. Try to embed these core values throughout the firm and ensure that your management processes don't treat each partner or area as an island of its own. Hard as it can be for some, you need to be open with each other when it comes to compliance. Poor judgment by one lawyer in one department can bring down an entire firm. Remember that the objective assessment of broad principles when profit, success and livelihoods are at stake can be hard. Work hard at an open management culture where the decisions taken in one area can be openly discussed in another.

Anyway, for a checklist on the principles, it seems sensible to simply list them.

You must:

1. uphold the rule of law and the proper administration of justice
2. act with integrity
3. not allow your independence to be compromised
4. act in the best interests of each client
5. provide a proper standard of service to your clients
6. behave in a way that maintains the trust the public places in you and in the provision of legal services
7. comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner
8. run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles
9. run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity
10. protect client money and assets

## SRA Code of Conduct

| <p><b>Client care</b></p> <p>A brief summary of the SRA requirements</p>  | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p> | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p> | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>   |
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| <p>Treat clients fairly, protect their interests, agree retainers suitable to the client's needs and put them in a position to make informed decisions about their case</p> | <p>1.1, 1.2, 1.5, 1.6, 1.12 and 6.3 (see IB 6.2 also) of the SRA Code of Conduct</p>   | <p>Firm and all staff</p>  | <p><b>values:</b> strive towards a culture of fairness and transparency for clients.</p> <p>Consider as a firm how you could demonstrate that clients are treated fairly if asked to do so.</p>   |
| <p>Client service is prompt, including dealing with complaints promptly (including complaints of discrimination)</p>  | <p>1.5, 1.6 and 2.5 of SRA Code of Conduct</p>   | <p>Firm and all staff</p>  | <p><b>values:</b> strive towards a culture of speedy service and good time management</p> <p><b>process (file reviews):</b> consider adopting standard time limits within which certain steps should be taken (such as updates to clients, actioning correspondence and returning phone calls) and in your file reviews check that this is being done</p> |

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| <p>Client complaints are dealt with promptly, fairly, openly and effectively. This includes reiterating for clients the information given about the <a href="#">Legal Ombudsman</a> once a client complaint has reached the end of your own internal complaints procedure. Clients should not be put under pressure or asked to agree to not report a complaint or other information to the SRA or the Legal Ombudsman</p> | <p>1.10, 1.11 and 10.7 of the SRA Code of Conduct</p> | <p>Firm and all staff</p> | <p><b>values:</b> encourage a positive and constructive <a href="#">approach to complaints</a>. Us lawyers can be a little defensive when someone complains so be wary.<br/><b>process:</b> have a thorough user orientated written complaints procedure which prohibits charging for handling complaints or putting pressure on clients not to raise a matter with the Ombudsman. As part of the process provide any complainant's with the procedure and any other information they need to understand how their complaint will be dealt with. The SRA Code of Conduct offers some further guidance on good practice at IB1.22-1.24 and IB 10.11-10.12<br/><b>process:</b> attempts to prevent clients from providing information to the SRA should be prohibited and defamation proceedings should not be brought against a client without some form of sign off (see the concerns of the SRA here set out at indicative behaviour 10.12)<br/><b>process:</b> keep a record of your client complaints. This can help you spot patterns and improve</p> |
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| <p>At the outset of matters clients are informed:</p> <ul style="list-style-type: none"> <li>• of appropriate information about you, your firm and how you are regulated;</li> <li>• what protections (such as insurance, SRA or FSA oversight and compensation fund) are in place or are not for a particular matter;</li> <li>• of any limitation on your liability (i.e. for negligence) verbally and in writing (check also that the limitation is above the minimum required by the SRA Indemnity Insurance Rules)</li> <li>• their right to complain to you and to complain to the <a href="#">Legal Ombudsman</a> (where there is such a right) and how to do this, including timescales and contact details;</li> <li>• how their matter will be handled;</li> <li>• what options are available to them, in terms of funding and legal strategy for example;</li> <li>• whether likely cost of legal action could outweigh the benefits gained;</li> <li>• limitations on what you can do for the client, because of the client's funding arrangements for example;</li> <li>• of what they need to know to make an informed choice about how to proceed. Watch out for client referral arrangements which try to tie clients into things before you can advise them;</li> <li>• of the best possible information you can provide about the likely overall cost of <b>their</b> matter (including information on legal aid costs and disbursements);</li> <li>• confirmation that the client was referred to you for a fee if that was the case; and</li> <li>• how to challenge or complain about your bill and when they may be liable for interest on it</li> </ul> | <p>1.1, 1.2, 1.3, 1.7, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 8.4, 9.4 and 9.5 of the SRA Code of Conduct</p> <p>Note that there are other client care considerations elsewhere in this checklist and in our wider SRA Handbook checklist. For example, you may want to mention in your client care letter any outsourcing arrangements, flag your reasonable adjustments policy and should include any wording necessary to comply with consumer legislation (i.e. consumer contract regulations).</p> | <p>Firm and all staff</p> | <p><b>precedents:</b> most firms adopt standard client care letters and terms of business for use by all staff. The Law Society have published free guidance on creating <a href="#">client care</a> letters which includes some standard paragraphs</p> <p><b>precedents:</b> information about how to challenge a bill and interest could be printed on each bill</p> <p><b>process (file reviews):</b> include a standard check in file reviews that the correct precedent is being used. If not, check the relevant points are covered and sign off the variation</p> <p><b>process:</b> a process for centrally signing off or at least sampling periodically the inevitable variations to the standard terms. This is also a good way to check centrally (i.e. someone other than the partner with usual responsibility for an area) for any funding arrangements which may benefit from a second set of eyes. For example: inappropriately high limitations on liability in negligence or profit (see 1.8 of the Code) or profit costs being wrongly claimed as disbursements. See the Law Society guidance on <a href="#">telegraphic transfer charges</a> and note that charging the client more than the firm incurred for telegraphic transfer charges has <a href="#">contributed to strike offs at the Tribunal</a> in the past. Note also the clear warnings by the SRA to avoid describing overheads of your firm (such as normal postage, telephone calls and charges arising in respect of client due diligence under the Money Laundering Regulations 2007) as disbursements in your advertisements and against advertising an estimated or fixed fee without making it clear that additional charges may be payable if that is to be the case (indicative behaviours 8.8 and 8.9 of the Code of Conduct).</p> |
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| <p>To make recommendations to clients about using third party goods or services in good faith and in the client's best interests</p>   | <p>6.1 of the SRA Code of Conduct</p>  | <p>Firm and all staff, though perhaps with the approval of agreements to refer clients to third parties going to the COLP or another senior person</p> | <p>Referring clients to third parties can be high risk if there is more involved than a simple referral in good faith i.e. without any other connection or arrangement between the staff member or the firm and the third party. Even when this is not the case client should still be informed of relevant facts about the party being referred to. For example, that a financial adviser who a client is referred is tied to certain products rather than being able to advise on all options which may be available<br/><b>process:</b> consider requiring the sign off of the COLP or a similar senior member of staff if an agreement of some form is being entered into to refer clients on an ongoing basis to a third party. Exclusively referring all clients to one source is unlikely to be the in the best interests of every single client so this sort of issue should be watched out for. Where agreements are entered into they should always be subject to the best interests of the client on a case-by-case basis and compliant with regulatory requirements<br/><b>values:</b> this requirement should really be covered by the value of treating clients fairly but may be worth stressing to staff the potential risks of having an interest in where clients are referred to</p> |
| <p>Clients remain informed as the matter progresses of the best possible information you can give about the likely overall cost of their matter. Don't wait for the original estimate to be exceeded before updating the client.</p> | <p>1.13 of the SRA Code of Conduct</p> | <p>Firm and all staff</p>  | <p><b>process (file reviews):</b> include a standard check in file reviews that the latest cost estimate has not been exceeded, remains appropriate and the client is not otherwise out of the loop on the costs position</p>   |

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| <p>Enter into client agreements fairly and in compliance with legal requirements (see also IB 2.5 on the importance of making sure staff do not discriminate unlawfully if refusing to take a client on)</p> | <p>1.3 and 1.6 of the SRA Code of Conduct</p> | <p>Firm and all staff</p>    | <p><b>process (file reviews):</b> include a standard check in file reviews and / or the process for setting up files to check that the person giving the instructions is the client or if joint clients that the one giving the instructions has the authority to speak for all. Watch out for clients under duress or undue influence and mental capacity issues. See IB1.6, IB1.25 and IB1.28<br/> <b>ownership, precedent and process:</b> think about identifying a costs law expert in the firm and help them, keep <a href="#">up to date on developments</a>. Get them involved in reviewing and updating the standard client retainer and terms of business. Watch out for contingency fees (note the cap in some employment matters) and conditional fee agreements in particular</p> |
| <p>Not acting if a client wants to give a gift of significant value to staff, the firm or people connected to the staff or the firm.</p>   | <p>IB1.9 SRA Code of Conduct</p>              | <p>Firm and all staff</p>    | <p><b>process:</b> though this is only an 'indicative behaviour', it is perhaps hard to see when it would ever be sensible to accept a significant gift from the client. Consider setting a maximum value for gifts from clients and gifts above that value may only be accepted with the COLP or other senior individual's authority.</p>   |
| <p>Bring instructions to an end fairly and in compliance with the code</p>   | <p>1.3 of the SRA Code of Conduct</p>         | <p>All fee earning staff</p> | <p><b>precedent and process:</b> have in place a simple approach / checklist for ending client retainers. You should have a good reason for ending the retainer and give reasonable notice to client, particularly if coming off the Court record. You should also explain to the client their options for progressing the matter. See IB1.10 and IB 1.26</p>  |



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| <p>Have the right skills and resources to deal with the work which is taken on</p>  | <p>SRA Principles and 1.4 and 1.5 of SRA Code of Conduct</p>               | <p>All fee earning staff</p>  | <p>Regular file reviews should pick up any systemic issues in this respect. Be wary of the temptation to accept work beyond your firm's expertise or resources. Some firms have a process for peer approval before taking on higher risk work or work outside of the known practice areas and this can be very effective for issues such as this.</p>               |
| <p>Have professional indemnity insurance in place</p>   | <p>1.8 of SRA Code of Conduct and 4.1 of SRA Indemnity Insurance Rules</p> | <p>COLP, COFA or other designated person should have clear responsibility centrally for ensuring this is in place and managing the relationship with the insurers</p>   | <p><b>ownership:</b> assign responsibility (even if to yourself) for renewing insurance and ensure that deadlines are placed into a diary accordingly. Partners should be satisfied that this is in hand as renewal dates approach</p>  |
| <p>Tell clients if you discover that they could make a claim against you i.e. for negligence. Should also consider if independent advice is needed where there is potential for a claim</p> | <p>1.16 of the SRA Code of Conduct</p>                                     | <p>Firm and all staff. COLP or other designated person who manages relationship with insurers may also be a very helpful person to check that the relevant information has been given to clients when they notify insurers of potential claims.</p> | <p><b>precedent and process:</b> consider a simple approach / checklist or a precedent letter for these scenarios so you have a uniform approach (in addition to the oral discussions). Also consider as part of the process for notifying the firm centrally of potential indemnity claims a check that the correct information has been given / template used</p> |

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| <p>Consider not accepting commissions from third parties (such as for selling an insurance product to a client) or other financial benefits (such as a discount from a search provider because your firm has referred a lot of clients to them). The circumstances in which you do not need to pay this sum (or your best approximation of this sum) to the client do not appear to be very clear but certainly seem to be limited. See IB 1.20. Prior to the Code only very small sums could ever be retained (under 20 pounds) and now even that appears questionable and would appear to require express and informed client consent. There are also specific requirements to inform clients about financial or other interests you have when a referral is made to a third party.</p> | <p>1.15 of the SRA Code of Conduct</p>  | <p>Firm and all staff.</p> | <p><b>process:</b> consider prohibiting the receipt of commissions or other benefits unless the arrangement has been signed off at a senior level, such as by the COLP. Or prohibit altogether. Some may conclude that the risks and administration involved outweigh the potential benefits.</p>   |
| <p>Ensure that clients, in addition to the other SRA client care requirements (though there does appear to be significant overlap), have access to the following details:</p> <ul style="list-style-type: none"> <li>• your name and firm form ie partnership or LLP etc;</li> <li>• your contact details;</li> <li>• your regulators and your identifying numbers with those regulators ie SRA ID;</li> <li>• your VAT number;</li> <li>• your general terms and conditions;</li> <li>• your insurer's contact details and their territorial coverage (compulsory coverage);</li> <li>• where to find the SRA Handbook.</li> </ul>   | <p>The <a href="#">Provision of Services Regulations 2009</a> and Principle 7 of the SRA Principles</p> | <p>Firm and all staff</p>  | <p>These regulations and the Directive which they implement apply to lawyers. There is significant duplication in terms of the information which the regulations require lawyers to provide to clients and what the SRA requires. However, it is a legal requirement to comply with the regulations also. We have sought to summarise the key points opposite (ie those requirements not covered by other SRA requirements) but the regulations should be checked directly. The Law Society has published a <a href="#">practice note</a> previously on its suggested approach, though it was prepared prior to the significant changes made to the Handbook in 2011.</p> <p><b>process:</b> add the relevant details to your standard client care and terms of business and possibly on the website (see the requirements of the regulations for how the information can be made available).</p> |

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| <p>Firms which are not also regulated by the Financial Conduct Authority (FCA) but conduct some 'exempt' services under the SRA's Financial Services (Scope) Rules (as many do) must provide certain additional information to their clients. Namely,</p> <ul style="list-style-type: none"><li>• a statement that the firm is not authorised by the FCA;</li><li>• the name and address of the firm;</li><li>• the nature of the regulated activities carried on by the firm, and the fact that they are limited in scope;</li><li>• a statement that the <i>firm</i> is authorised and regulated by the Solicitors Regulation Authority; and</li><li>• a statement explaining that complaints and redress mechanisms are provided through the Solicitors Regulation Authority and the Legal Ombudsman.</li></ul> <p>Many firms also conduct 'insurance mediation activities' and so are also required to adopt a standard paragraph from SRA rules about this and send it to the client.</p> | <p>Rules 3.2 and 3.3 of the SRA Financial Services (Conduct of Business) Rules 2001</p> | <p>Firms and all staff</p> | <p><b>process:</b> consider adding standard paragraphs to your template client care documentation.</p> |
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| <p>Ensure that 'consumer' clients (which in summary means clients acting in some capacity other than for business purposes) receive the necessary information under the Consumer Contracts Regulations. The Regulations set out some specific information which may need to be provided to certain clients. Much of the information may well be covered by existing processes as there is significant overlap with the client care requirements, the Provision of Services Regulations and general good practice. However, additional information will almost certainly need to be provided where some form of off-premises discussions take place with the client before the contract is entered into or where an order is placed from a distance e.g. online, mail order or telephone sales.</p> | <p><a href="#">The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013</a> and Principle 7 of the SRA Principles</p> | <p>Firm and all staff</p> | <p>These regulations apply to lawyers. The Law Society has published a <a href="#">practice note</a> which examines the requirements in some depth and is very helpful. The Law Society suggest that the regulations do not apply to legal aid matters and that the MoJ agrees with this assessment.</p> <p><b>process:</b> check the regulations against your current client care and retainer processes and templates. Check in particular if there are any areas of the business which might conduct any form of off-premises discussions with consumer clients before the contract is entered into or whether any orders can be placed from a distance e.g. online, mail order or telephone sales. If so, make sure that they have the training and templates which they need to not get caught out here. The consequences of failing to meet the requirements can be very serious and include unenforceable retainers and committing criminal offences. The Law Society <a href="#">practice note</a> is an extremely helpful starting point in getting to grips with these requirements.</p> |
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| <p><b>Promoting equality and diversity</b></p> <p>A brief summary of the SRA requirements</p>  | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p> | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p> | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>To not discriminate, victimise or harass and to provide services in a way that respects diversity</p>                                 | <p>2.1 and 2.2 of the SRA Code of Conduct</p>  | <p>Firm and all staff but particularly important for line managers and partners.</p>   | <p>The SRA's Equality and Diversity (E&amp;D) requirements appear to largely stress the need for firms to comply with the law in this area. However, they have also stressed the desire for firms to create 'a culture in which equality of opportunity and respect for diversity are encouraged'. The latter is more difficult to define. Here are some practical steps that might be taken:</p>  |
| <p>Encourage equality of opportunity and respect for diversity in in how you recruit and work with staff</p>                             | <p>2.4 of the SRA Code of Conduct</p>  | <p>Firm and all staff but particularly important for line managers and partners.</p>   | <p><b>ownership:</b> consider identifying a senior individual (with existing E&amp;D, employment law or HR expertise if possible) who can work through the Law Society practice notes on the SRA's <a href="#">conduct</a> and diversity <a href="#">monitoring</a> requirements and the <a href="#">Equality Act</a> and the <a href="#">Equality and Human Rights Commission guidance for employers</a>, and build (and maintain) expertise and lead for the firm in this area</p>   |
| <p>Make 'reasonable adjustments' for disabled clients and staff and do not pass on the costs of adjustments for a client to a client</p> | <p>2.3 of the SRA Code of Conduct</p>  | <p>All fee earning staff but particularly important for line managers and partners</p> | <p><b>process:</b> use the guidance linked to above and IB 2.1 to draft an equality and diversity policy, including what the firm will do to achieve equality in treatment of staff and clients such as reasonable adjustments for accessing the premises, periodic equal pay reviews, consistent objective approaches to recruitment and promotion, workforce diversity monitoring (<a href="#">including publication of the data</a>) and ensuring equality and encouraging diversity in recruitment processes</p> <p><b>process:</b> training is strongly encouraged at IB2.2 and is particularly important for line managers and those involved in recruitment</p> |

| <h2 style="text-align: center;">Conflicts of interest</h2> <p style="text-align: center;">A brief summary of the SRA requirements</p>  | <h2 style="text-align: center;">Rule or regulation</h2> <p style="text-align: center;">Where in the Handbook is the full requirement?</p> | <h2 style="text-align: center;">Key people</h2> <p style="text-align: center;">Who will this requirement impact most upon in the firm</p> | <h2 style="text-align: center;">Things to consider</h2> <p style="text-align: center;">For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>To have an effective system in place to spot and assess potential conflicts, both between clients (a 'client conflict') and between you or your staff and clients ('own interest conflict')</p> <p>To have effective systems and controls in place to enable you to identify risks to client confidentiality and to mitigate those risks.</p> | <p>3.1-3 of the SRA Code of Conduct</p> <p>4.5 of the SRA Code of Conduct</p>   | <p>Firm and all staff should apply the system but it should be put in place centrally, by the COLP for example</p>                        | <p>Although there is a clear requirement for systems which will spot potential conflicts, there does not appear to be an accepted position in the Code or the Law Society <a href="#">practice note</a> for what the system should be. The best approach will differ from firm to firm but the following are some sensible things to consider.</p> <p><b>process - systems to spot conflicts:</b><br/>many firms ask staff to inform the firm of any business activities or similar (such as a directorship or being a trustee of a charity) outside of work and even certain information about the interest of immediate family members (particularly for partners of the firm). Care in practice should be taken in how this information is sought, stored and used. However, it is very important that the firm can be satisfied that it can check whether it or its staff (partners in particular) have an interest in the work they take on</p> <p><b>process - clear guidance and training:</b> while a searchable database of clients (past and present) and firm interests is an important tool, realistically it perhaps cannot capture every conceivable conflict situation. Changes in circumstances, such as the parties involved in litigation or the firm or staff acquiring new interests can in particular catch people out. Fee earning staff (qualified or not) need to be clear on what an own interest conflict is, what a client conflict is and the difficulties in acting in matters where former clients are a party to the proceedings because of the confidential information held about them. Staff should be vigilant throughout the life of each matter. The Compliance Office provides an online training refresher pack for fee earners of all levels – see our <a href="#">website</a> for details.</p> |

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| <p>To not act if there is a conflict between you or your staff and clients ('own interest conflict') <b>or</b> <u>a significant risk</u> of a conflict</p> <p>To not act if there is a conflict between two or more clients ('a client conflict') <b>or</b> <u>a significant risk</u> of a conflict, subject to two very limited exceptions</p> <p>To not act for one client in a matter whose interests are at odds with another client <b>or</b> <u>former client</u> for whom the firm or staff hold relevant confidential information, subject to some very limited exceptions (see note (ii) to Chapter 4 of the Code of Conduct). This prohibition applies whether or not there is an own interest or client conflict - it is a separate test.</p> | <p>3.4, 3.5 and 4.4 of the SRA Code of Conduct. IB3.2-3.14 provide examples of what would likely constitute a conflict. See also the guidance in the <a href="#">SRA's quick guide to outcomes focused regulation</a></p> | <p>Fee earning staff</p> | <p>Lawyers generally feel quite comfortable assessing whether there is a conflict of interest but this can be a far more complex assessment than some perhaps appreciate. The prohibition on acting can include scenarios where there is only a risk of a conflict or confidential information about a former client being disclosed. Even firms with highly sophisticated conflicts procedures and significant in-house expertise <a href="#">have been found by the Courts to get it wrong</a>, at great expense. If in doubt, it may be worth seeing what level of guidance the <a href="#">SRA Ethics team</a> are able to offer (a free service).</p> <p><b>values:</b> strive towards an open compliance culture where even senior lawyers take advice on these complex assessments</p> <p><b>process</b> - prohibit the setting up of a new matter without checking that the firm does not and has not previously acted for other parties in a matter and that the firm and staff do not have an interest in the matter. A record of the checks should be kept.</p> <p><b>process</b> - consider a sign off process by a conflicts / confidentiality specialist (the COLP perhaps) or at manager level where the firm has acted for or is acting for a connected party or where the firm or a staff member has any level of interest in the matter. In the event of doubt or disagreement, it is worth seeing what level of guidance the <a href="#">SRA Ethics team</a> are able to offer (a free service).</p> <p><b>process (file reviews):</b> consider including a standard check in file reviews that a check for conflicts and putting confidential information at risk has been completed correctly.</p> <p><b>process</b> - potential conflicts in conveyancing are particularly difficult. Some firms have a set policy for if and when they will deal with common higher risk scenarios such as acting for buyer and seller or lender and borrower. There's some guidance in the SRA's '<a href="#">OFR at a glance document</a>' as well as the indicative behaviours in chapter 3 of the Code of Conduct.</p> |
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| <h2 style="text-align: center;">Confidentiality</h2> <p style="text-align: center;">A brief summary of the SRA requirements</p>   | <h2 style="text-align: center;">Rule or regulation</h2> <p style="text-align: center;">Where in the Handbook is the full requirement?</p> | <h2 style="text-align: center;">Key people</h2> <p style="text-align: center;">Who will this requirement impact most upon in the firm</p>   | <h2 style="text-align: center;">Things to consider</h2> <p style="text-align: center;">For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>To keep all client information confidential and to only disclose client information if the client consents or if required or permitted as a matter of law. This applies even when the client dies or fails to pay his or her bills and the fees need to be recovered (see IBs 4.6-4.7)</p> <p>There's also a specific requirement in Chapter 5 to ensure that evidence relating to sensitive issues disclosed in Court or Tribunal work is not misused. IB 5.3 identifies child witness evidence as a particular risk and encourages good security and to not release this evidence to others, including clients</p> | <p>4.1 of the SRA Code of Conduct</p> <p>5.7 of the SRA Code of Conduct</p>   | <p>Particularly important that all staff understand the confidentiality duty as anyone involved in the firm could, intentionally or otherwise, seriously breach client confidence</p> | <p><b>values:</b> client confidentiality should be understood to be a core value by all staff and contractors. Most firms have a bespoke 'support staff' training session and guidance and confidentiality should be a key part of it</p> <p><b>precedent and process:</b> have a standard set of wording which you use to ensure that contractors maintain confidentiality and to add into client retainers or terms of business which inform the client about how the information will be used (the ICO appear to have similar expectations in terms of data protection)</p> <p><b>process:</b> have a plan for how you will keep client information secure, including the wider requirements of the Data Protection Act. <a href="#">Firms</a> and <a href="#">lawyers</a> have been sanctioned by the Information Commissioner's Office for failing to <a href="#">take steps to secure the information</a> which they hold</p> <p><b>ownership and process:</b> think about identifying an individual within the firm who could have responsibility for Data Protection Act and broader confidentiality compliance and disclosure issues. Consider a central approval process by this person if ever client information is to be disclosed without client consent ie because it is required by law</p> |



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| <p>To make the client aware of all information material to their matter known by the fee earner, except where the information is being held in confidence for another client or it would otherwise be unlawful or improper</p> | <p>4.2 and 4.3 of the SRA Code of Conduct. See IB4.4 for some guidance as to when it would be okay to withhold information from a client</p> | <p>Fee earning staff</p>       | <p><b>values:</b> the importance of making sure that the client is well informed about their matter and how to progress it is stressed a few times in the Code of Conduct and is a simple but powerful value to adopt firm wide<br/><b>process:</b> consider a central (such as by the COLP) or line manager sign off if ever information is to be withheld from the client<br/><b>process (file reviews):</b> consider adding a standard check in file reviews that all material information has been shared with the client. However passionate you become about a matter, remember that the client should be making informed decisions about what to pursue and as such should have sight of relevant opinions or evidence, even if you don't agree with it</p> |
| <p>To have a process for securely storing closed papers until they are destroyed</p>   | <p>Nothing specific in the Code but in practice this is an important requirement to maintain confidentiality of client information</p>       | <p>Firm, partners and COLP</p> | <p><b>ownership:</b> delegate an individual such as an office manager or similar with the task of taking care to ensure that closed files are transported to and from the archive storage securely where used. Check that any third party storage providers operate in secure premises and agree in contract to maintain an appropriate level of security to keep the client files safe (plus the necessary undertakings for Data Protection Act compliance)</p>   |

| <h2 style="text-align: center;">Courts, litigation and advocacy</h2> <p style="text-align: center;">A brief summary of the SRA requirements</p>  | <h2 style="text-align: center;">Rule or regulation</h2> <p style="text-align: center;">Where in the Handbook is the full requirement?</p> | <h2 style="text-align: center;">Key people</h2> <p style="text-align: center;">Who will this requirement impact most upon in the firm</p>  | <h2 style="text-align: center;">Things to consider</h2> <p style="text-align: center;">For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>To not deceive or mislead the court or be complicit in anyone else deceiving or misleading the Court</p> <p>To fulfil the duty to Court, comply with court orders and not be in a position where you are in contempt of Court</p> <p>To not offer payment to witnesses dependent upon their evidence.</p> <p>See also the note above regarding the importance of safeguarding particularly sensitive information disclosed during Court or Tribunal proceedings</p> | <p>5.1-5.4, 5.6 and 5.8 of the SRA Code of Conduct</p>  | <p>Staff working in litigation or doing other Court or Tribunal work, though bear in mind that other staff will also have contact with the Court from time to time and all staff should know not to pursue matters which are not properly arguable and not to influence witness evidence</p> | <p>While these requirements appear obvious, in practice the SRA appear to have quite specific 'do's' and 'don't's' in mind. Look at IBs 5.2 and 5.4-5.13 and satisfy yourself that the litigation / Court and Tribunal work staff are clear on what is expected. For example:</p> <ul style="list-style-type: none"> <li>• ceasing to act in litigation if anyone in the firm might be called as a witness subject to certain exceptions;</li> <li>• the need to draw relevant cases and provisions to Court's attention even if it does not support your case;</li> <li>• ceasing to act for clients who have committed perjury, misled the Court or will not allow you to correct the Court if they have been misled;</li> <li>• not to pursue matters or draft contentions which have no prospect of success / are not 'properly arguable';</li> <li>• the limited circumstances in which fraud should be alleged;</li> <li>• how to safely work with witnesses;</li> <li>• only making accusations as an advocate which are necessary for the proper conduct of the case;</li> <li>• when the administration of justice will take precedence over client interests (see the notes to chapter 5).</li> </ul> <p><b>process:</b> the COLP and firm should be satisfied that the relevant staff understand the key 'do's' and 'don't's' of these requirements as well as the basic ethical values set out. Staff training (particularly for unqualified staff) and some litigation specific file review criteria are sensible steps to consider.</p> |

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| <p>Where 'relevant' to inform clients of the circumstances in which duties to the Court outweigh the duty to the client</p> | <p>5.5 of the SRA Code of Conduct</p> | <p>Firm and all staff</p> | <p><b>process:</b> while this should be picked up case by case where specific problems arise it is sensible to add into client care information and explain to the clients in Court or Tribunal matters that the duty to the Court and the Administration of Justice can require you to act or refrain from acting on instructions</p> |
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| <h2 style="text-align: center;">Managing your firm</h2> <p style="text-align: center;">A brief summary of the SRA requirement</p>   | <h2 style="text-align: center;">Rule or regulation</h2> <p style="text-align: center;">Where in the Handbook is the full requirement?</p> | <h2 style="text-align: center;">Key people</h2> <p style="text-align: center;">Who will this requirement impact most upon in the firm</p> | <h2 style="text-align: center;">Things to consider</h2> <p style="text-align: center;">For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>The firm has:</p> <ul style="list-style-type: none"> <li>- a clear and effective governance structure (i.e. set system for managing and directing the business properly, which firms will generally have even if they don't refer to it in those terms) and reporting lines between staff (between Committees and Boards too in firms which rely on these sort of structures);</li> <li>- systems and controls for monitoring financial stability and risks to client money and assets (posed by firm insolvency for example) and for initiating action if problems are identified.</li> </ul> | <p>7.1 and 7.4 of the SRA Code of Conduct</p>   | <p>Partners of the firm, COLP and COFA</p>  | <p><b>process:</b> record the management and governance processes which are in place in your firm and check that these enable you to manage the business well. This should include how you manage the financial stability of the firm and ensure compliance with the SRA Accounts Rules. A diagram showing who is responsible for what is fairly standard. Every individual in the business should be accountable to and subject to some level of oversight by another. Team meetings, regular 121s and appraisals are commonly used with success. Some elements of the governance system may already be recorded in the partnership or membership agreement or the articles of association. While the approach in small and unincorporated businesses will be simpler than corporate governance, the <a href="#">good governance principles</a> for small and medium sized corporate structures appear helpful reference</p> <p><b>process:</b> the management team(s) should meet regularly and deal with key management issues regularly as standing items such as the finances, SRA compliance, client complaints, negligence and other claims, health and safety, outcomes of file reviews and staffing issues</p> <p><b>process:</b> consider central checks that those senior individuals asked to take ownership of an area are doing what is required. This shouldn't involve duplication - just simple checks and balances in case, for example, the COFA or nominated officer are struggling</p> |

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| <p>To have effective systems and controls in place to achieve and comply with the SRA's requirements i.e. the Handbook</p> <p>To identify and manage risks to compliance with the SRA Handbook and take steps to address issues identified</p> <p>To ensure compliance throughout the firm and to have suitable arrangements in place to achieve this</p> | <p>7.2 and 7.3 of SRA Code of Conduct, 8.1 of the SRA Authorisation Rules and for sole practitioners 4.7 of the SRA Practising Regulations</p> | <p>Partners of the firm, the firm, COLP and COFA</p> | <p><b>process:</b> this checklist makes suggestions about the steps firms should consider taking to meet the requirements of the SRA Handbook and pick up where there are or may in the future be problems. The governance arrangements above are a fundamental part of spotting and managing risks to compliance. Monitoring cash flow, expenditure and budget to maximise financial stability is an obvious example of this.</p> <p><b>process:</b> in terms of identifying risks, consider a whistle blowing policy or something similar where staff can confidentially discuss concerns about any part of the firm with a senior member of staff. A whistle blowing policy seems to be encouraged by the SRA - see indicative behaviour 10.10 in the Code of Conduct</p> <p><b>process:</b> policies and procedures should be easily accessible to staff and understood</p> <p><b>process:</b> keep a log of factors which may indicate risk such as client complaints, indemnity insurance claims, outcomes of file reviews, customer satisfaction surveys if used, staff grievances and incidents and review these periodically to see if you can spot patterns or themes</p> <p>Some firms include these broad obligations to achieve compliance within their constitution e.g. a firm incorporated as a private limited company may require compliance within the articles.</p> <p>(See also indicative behaviours 10.1 and 10.2 of the Code of Conduct which strongly encourage actively monitoring compliance, including financial stability, to improve standards and compliance and minimise risk. Similar guidance is provided in rule 8 of the SRA Authorisation Rules)</p> |
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| <p>To comply with legislation applicable to your business, including anti-money laundering and data protection legislation</p> | <p>7.5 of the SRA Code of Conduct</p> | <p>Firm and all staff, though the work to achieve compliance will need to be initiated and overseen by the partners</p> | <p>This sounds obvious but is perhaps one of the most challenging goals to achieve. In practice this will require a similar approach to complying with the SRA's other requirements: ownership of each key area, policies / processes / precedents, training, auditing compliance with oversight, monitoring and action where needed by management. The good news is that there is plenty of guidance out there to help small and medium sized firms comply with the legal requirements of doing business. As well as <a href="#">general guidance from the government</a> there are a wealth of Law Society practice notes on general legal compliance:</p> <ul style="list-style-type: none"><li>• <a href="#">data protection</a> and <a href="#">information security</a></li><li>• <a href="#">what to put on emails and letter head</a>;</li><li>• <a href="#">anti-money laundering</a> and <a href="#">mortgage fraud</a></li><li>• <a href="#">Bribery Act</a></li><li>• <a href="#">working with clients who are deaf or hard of hearing</a></li><li>• <a href="#">government regulations on what information all service providers (including lawyers) should give to their clients</a></li><li>• <a href="#">publicity about your charges</a></li><li>• <a href="#">VAT (generally)</a>, <a href="#">VAT on disbursements</a> and <a href="#">legal aid and VAT</a></li><li>• <a href="#">business continuity</a></li></ul> <p><b>process (file reviews and recording steps taken):</b> consider including a standard check in file reviews that the relevant steps have been taken by the fee earners to ensure wider legal compliance. For example, include a standard check on file reviews that money laundering checks have been completed and are recorded</p> |
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| <p>To train individuals working in the firm to maintain a level of competence appropriate to their work and level of responsibility</p> | <p>7.6 of the SRA Code of Conduct</p> | <p>Firm and all staff, though the work to achieve compliance will need to be initiated and overseen by the partners,</p> | <p><b>process:</b> log centrally / at line manager level or check periodically that staff are completing the SRA's continuing professional development requirements (CPD). Consider a firm policy specifying that a certain number of hours per year or every three years should relate to the individual's practice area and to conduct requirements</p> <p><b>process:</b> co-ordinate centrally training which is needed firm wide, such as money laundering, rather than relying on individual teams or departments to do it. Check that all staff in act attend such sessions and record attendance centrally</p> <p><b>process:</b> co-ordinate centrally a programme to train unqualified fee earning and other staff on relevant conduct duties</p> <p><b>process:</b> have an induction programme for new starters</p> <p><b>process:</b> encourage line managers to discuss training and development needs with staff at an appraisal and provide or arrange training where a training need is identified (from file reviews for example)</p> <p>In general good records of training which staff have attended will help demonstrate the steps the firm has taken to comply</p> <p>Consider also the steps discussed below about informally supervising and coaching staff day to day to achieve the right quality of work</p> |
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| <p>To comply with the statutory requirements for the direction and supervision of reserved legal activities and immigration work.</p> <p>This includes not outsourcing reserved legal work to anyone not authorised themselves to conduct the work. Broadly speaking this will likely mean outsourcing this type of work to another solicitor's firm or a barrister or similarly qualified person or not at all</p> | <p>7.7 and 7.9 of the SRA Code of Conduct</p> | <p>Firm and all staff but those in the firm responsible for supervising individuals not able to conduct reserved work in their own right will need to understand the limitations and act within them</p> | <p>This is quite a technical requirement and one which there is little guidance on. It would be sensible to task the COLP with the job of brushing up on these requirements and checking that they are being complied with. Under the Legal Services Act 2007 only authorised persons, such as solicitors or barristers, can provide reserved legal activities such as taking certain steps in conveyancing, probate, litigation, notary public activities, administering oaths and exercising rights of audience (see schedule 2 of the Act). In very broad summary, non-authorized persons such as non lawyers who cannot provide reserved legal services in their own right, can carry out some reserved work but only at the direction and supervision of their employer. Generally speaking this should be occurring in any event but be careful for very experienced non lawyers or Chartered Legal Executives (although what Legal Executives can do in their own right will likely change over time) because, although they may be highly competent, the law still requires certain conditions be complied with. Consider section 190 of the Legal Services Act too in respect of supervising staff and legal professional privilege. Section 84(1) of the Immigration and Asylum Act 1999 also prohibits the provision of immigration advice or services persons who are not qualified but there are some exceptions where the work is being done on behalf of and supervised by someone who is qualified in their own right</p> |
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| <p>Where you do outsource work such as typing or proofreading you ensure that the arrangements:</p> <p>(a) do not adversely affect your ability to comply with, or the SRA's ability to monitor your compliance with, your obligations in the Handbook;</p> <p>(b) is subject to contractual arrangements that enable the SRA or its agent to obtain information from, inspect the records (including electronic records) of, or enter the premises of, the third party, in relation to the outsourced activities or functions;</p> <p>(c) does not alter your obligations towards your clients; and</p> <p>(d) does not cause you to breach the conditions with which you must comply in order to be authorised and to remain so.</p> | <p>7.10 of the SRA Code of Conduct</p> | <p>It would be sensible to centralise any arrangements which exist to outsource work, with the COLP entering into the arrangements for example</p> | <p>Firstly, check that the outsourcing arrangements would not involve the outsourcing of reserved legal work (see above).</p> <p>Secondly, consider a process for an individual such as the COLP in the firm to arrange or at least sign off outsourcing arrangements firm wide. This allows the firm to manage risk and avoid individual teams taking different approaches. Look carefully at the SRA's criteria and check that your arrangements are compliant. The Law Society have published a <a href="#">practice note</a> on this subject</p> <p>Also consider maintaining a central record of outsourcing or similar arrangements (even for bulk photocopying or courier delivery) and check that confidentiality can be maintained. A contract with any third party which confirms what they may and may not do with the information shared will be appropriate. Client consent may arguably be implied in some cases but keeping the client informed and seeking express consent if in doubt is perhaps sensible</p> |
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| <p>To have a system for supervising clients' matters, to include the regular checking of the quality of work by suitably competent and experienced people</p> | <p>7.8 of the SRA Code of Conduct</p> | <p>All fee earning staff, but line managers and COLP / central compliance team will need to do the checking</p> | <p><b>process:</b> consider a set firm wide policy on how new staff members and unqualified staff will be supervised (including ensuring that reserved legal services and immigration work are supervised in accordance with legal requirements). For example, when a new member of staff begins, many firms arrange for all post in and out to be checked by the line manager for an initial period. For unqualified members of staff, the checking of work where legal analysis is required or conduct issues may arise often continues for a longer period</p> <p><b>process:</b> it is difficult to imagine how partners and compliance officers can sleep at night without a good file review process. Time and time again the Solicitors Disciplinary Tribunal hears evidence from solicitors whose main fault is leaving a fee earner, an accounts clerk or a fellow partner to '<a href="#">get on with their job</a>'. Most firms will have a system where a sample of every fee earners files are reviewed regularly. Make sure that the files selected are random and not picked by the reviewee. There will often be firm wide core requirements for what should be covered by these 'local' file reviews. This checklist discusses some of areas which would be sensible to check on as standard. Consider also having at least some periodic central checks by senior individuals from different parts of the firm. This should include checking that the COLP and COFA are doing what is required of them. The aim of these checks would be a small sample to be confident that there is not a part of the firm which is in trouble or may be heading that way. Many firms have got into enormous trouble by treating a partner's or accounts head's area as an island. Any one part of the firm could damage or destroy the rest. Spot checks by an independent party, combined with a confidential means for staff to report concerns to a senior member of staff, are a good way to mitigate these risks</p> |
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| <p>To have appropriate arrangements for the orderly transfer of clients' property to another firm if your firm closes</p> | <p>IB 10.9 of SRA Code of Conduct</p> | <p>Partners and COLP</p> | <p><b>process:</b> this is only an indicative behaviour and so is not necessarily an absolute requirement. However, it seems sensible to have some sort of plan in place for if the worse were to happen and the firm had to close for whatever reason.</p> <p>It is also highly advisable to have some form of <a href="#">business continuity plan</a></p> |
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| <p><b>Publicity</b></p> <p>A brief summary of the SRA requirement</p>  | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p> | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p>   | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>   |
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| <p>To ensure that clients and the public have appropriate information about you, your firm and how you are regulated</p> <p>To put on your letterhead, website and e-mails the words "authorised and regulated by the Solicitors Regulation Authority" and the details of how the firm is registered at Companies House or with the SRA (see 8.5 of the SRA Code of Conduct)</p> | <p>8.4 and 8.5 of the SRA Code of Conduct</p>  | <p>Sensible to have stationary, web material and publicity generally signed off centrally, by the COLP or other senior person with knowledge of conduct requirements</p> | <p>The Law Society have published a <a href="#">practice note</a> on what firms should put on their letterhead, website and emails. This is very helpful as it looks to bring together the conduct duties and the legal requirements (for a company to put certain information on its letterhead for example).</p> <p>Take care if your firm provides services other than legal services or if your firm jointly markets with another business. See IBs 8.1 and 8.2</p> |

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| <p>To ensure that the firm's publicity (and any advertising done for the benefit of the firm) is accurate and not misleading, and is not likely to diminish the trust the public places in you and in the provision of legal services</p> <p>In particular, publicity relating to fees is clear about what the actual fees would be and does not give a misleading impression by failing to include important charges such as VAT and disbursements</p> <p>To not use 'cold calling' by phone or in person to publicise your business (note that the rules are worded in such a way as to prohibit quite a wide range of scenarios so look at the rules and indicative behaviours carefully)</p> | <p>8.1 to 8.3 of the SRA Code of Conduct</p> | <p>Sensible to have stationary, web material, other publicity and promotional activities such as setting up a stand in a shopping centre signed off centrally, by the COLP or other senior person with knowledge of conduct requirements</p> | <p><b>ownership and process:</b> allocate responsibility for signing off stationary, web material, publicity and promotional activities (including where a referrer or contractor is doing the advertising) and require that this be signed off centrally by the COLP or another senior person with knowledge of the conduct requirements. The indicative behaviours in chapter 8 of the Code of Conduct should be gone through if approval is sought to check for any high risk areas. In assessing whether there is a risk of publicity being misleading it is helpful to stop and think about how it would be interpreted by its audience. If in doubt, consider seeking the views of the <a href="#">SRA professional ethics team</a> (a free service)</p> <p><b>process:</b> consider preparing a standard set of instructions or information sheet on the compliance responsibilities of law firms in respect of publicity if you regularly work with external marketing businesses</p> <p><b>process:</b> consider a social media policy which includes restrictions on how staff can refer to the firm on social networking sites. Staff and firms can get in considerable difficulty by making careless statements on twitter or similar websites</p> |
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| <p><b>Referral of clients to the firm</b></p> <p>A brief summary of the SRA requirement</p>   | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p> | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p>                     | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>If you have an arrangement with a third party to refer clients to your firm, this does not affect or restrict the advice which you would provide to clients i.e. your independence and your professional judgement are not prejudiced.</p> <p>The interests of the introducer of business to you and your own interest in continuing to receive that work must not affect your duty to protect the interests of the client and your duty to the Court. This includes putting clients in a position to make informed decisions about how to pursue their matter, even if they have already made some plans about how to pursue the matter with the introducer. Broadly speaking it seems safer to avoid arrangements which bind clients in terms of their legal matter before you have had the opportunity to advise on what is best.</p> | <p>9.1-9.3 of the SRA Code of Conduct</p>  | <p>Partners and others with responsibility for entering into client referral arrangements for the firm</p> | <p><b>values:</b> these requirements expand only slightly on the principles and values set out elsewhere in the SRA Handbook. However, like conflicts of interest, arrangements with a third party to regularly receive referrals of business can pose a significant risk to the core duties. The interests of the client and the referrer of the client will often not be aligned. Try to encourage awareness of third party interests as a potential risk to the core duties as well as an understanding of the duties themselves. If you have to choose between compliance and keeping an important source of work happy, the conduct requirements should take precedence.</p> <p><b>process:</b> the potential pressures on individuals in a firm to please third party introducers should not be underestimated and care should be taken. Consider a process of having referral arrangements signed off and periodically reviewed centrally (by the COLP or a partner outside of the team or department doing the work in question for example) because of the significant risks posed. Consider also a central record of the referral arrangements the firm has. Use the indicative behaviours as guidance on what to look out for. Watch out in particular for agreements with third parties which in anyway restrict how client matters can be conducted or where referred clients are in anyway in a less favourable position than other clients.</p> |

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| <p>To not make payments to an introducer of clients in criminal cases or other publicly funded matters</p> <p>From April 2013, to not pay or be paid for the referral of personal injury claims or claims for fatal injuries.</p> | <p>9.6 of the SRA Code of Conduct</p> <p>See section 56 of the Legal Aid Sentencing and Punishment of Offenders Act for the proper definitions used. SRA rules on the ban will be added to Chapter 9 of the SRA Code of Conduct also it seems</p> | <p>Partners and others with responsibility for entering into client referral arrangements for the firm</p> | <p><b>process:</b> include these checks as part of the central sign off of referral arrangements.</p> <p>All lawyers responsible for conducting personal injury work should already be familiar with the fact of the ban but what is and is not covered by the ban would still likely benefit from a central check</p> |
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| <p>If you have an arrangement with a third party to refer clients to your firm which involves payment or any other form of consideration in return:</p> <ul style="list-style-type: none"><li>• put the agreement in writing</li><li>• explain to clients the arrangements and fees or other incentives involved in the referrals to you</li><li>• if you agree to share profits or revenues from your work with an introducer of business, to inform the clients of this (take care that these arrangements <a href="#">do not compromise your independence</a> or mean that you <a href="#">need to become an alternative business structure</a> because of the involvement of non lawyers</li></ul> | <p>9.4, 9.5 and 9.7 of the SRA Code of Conduct</p> |  | <p><b>process:</b> a central check and record of referral arrangements could make sure that arrangements are in writing</p> <p><b>precedent:</b> consider preparing standard information about different referral arrangements that can be included within the client care information (though the guidance provided at indicative behaviours 9.5 and 9.6 suggests that the relevant information should be explained orally also)</p> |
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| <p><b>Making reports to the SRA and co-operating with enquiries</b></p> <p>A brief summary of the SRA requirement</p>   | <p><b>Rule or regulation</b><br/>Where in the Handbook is the full requirement?</p>  | <p><b>Key people</b><br/>Who will this requirement impact most upon in the firm</p> | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>  |
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| <p>To comply with the Handbook requirements to report certain information and events to the SRA. Namely:</p> <ul style="list-style-type: none"> <li>- "<u>material changes to relevant information about you</u> including serious financial difficulty, action taken against you by another regulator and serious failure to comply with or achieve' compliance. There's a similar requirement in a separate set of rules for firms to notify the SRA of '<u>relevant information</u> about itself, its employees, managers, or interest holders including any non-compliance'</li> <li>- 'serious misconduct' by SRA regulated individuals such as solicitors, firms regulated by the SRA or anyone working within or who is an owner of such a firm (so this extends beyond you and your firm).</li> <li>- that you expect your firm to close (there is also an obligation to wind down properly and responsibly - see 10.13 of Code)</li> <li>- tell the SRA of changes to information provided in an application to it (presumably while a decision is pending) or if the information provided was inaccurate, misleading or incomplete</li> </ul> | <p>10.1 of the SRA Code of Conduct</p> <p>10.3 of Code and 8.7(c) of SRA Authorisation Rules (ARs)</p> <p>10.4 of Code</p> <p>10.13 of Code</p> <p>Rule 3 of the ARs and 1.2 of Practising Regulations</p> | <p>Firm and all staff</p>   | <p>The requirement to report information in certain circumstances to the SRA about yourself, your firm, your staff / owners and even other SRA regulated persons outside your firm is difficult to define. The COLP and COFA should as part of their role report be prepared to report actual breaches of the Handbook. The aim of the reporting requirements seem to be to allow the SRA to anticipate future breaches and problems. While we have attempted to pull together here a comprehensive list of the reporting requirements in the Handbook they are rather scattered and some provisions will always be open to interpretation so unfortunately we cannot guarantee that this is exhaustive (hard as we have tried!). The Law Society has also attempted a comprehensive <a href="#">list of the reporting requirements</a> in a different format</p> <p>Some of the requirements place an obligation on individuals involved in law firms (including non-lawyers / support staff) and others on the firm or the COLP or COFA. There appears to be substantial overlap between the various reporting requirements and so it seems sensible for the reports to be made on behalf of both the firm and the individual at once if possible.</p> <p>Some of the requirements specify a timescale for reporting the information to the SRA. Broadly speaking it appears sensible to report things as soon as possible and to look out for very urgent issues.</p> |

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| <p>- if a firm is a partnership and is left with only one partner for reasons other than a planned and orderly departure from the firm, a report to the SRA may well be needed - (temporary emergency recognition as a sole practitioner may also be needed - see the rule for details)</p> <p>- if there are no longer the required number and type of lawyer partners able to continue in that role (this depends upon the structure of the firm - see the rule for details)</p> <p>- if your firm no longer fulfils the mandatory eligibility requirements for an SRA regulated law firm, if there is a partnership split, if a partnership needs to become a sole practitioner practice (this depends upon the structure of the firm - see the rules for details)</p> <p>- if you cease to have a COLP or COFA</p> <p>- any change to firm's name, registered office and/or any of its practising addresses, managers (i.e. the partners, members or directors as appropriate), owners (though who constitutes an owner will depend upon the structure of the firm - see the rule for details), COLP or COFA</p> <p>- a firm which is an unlimited company becomes limited</p> <p>- the firm is wound up or some other insolvency event such as going into administration occurs (see the definition of 'relevant solvency event' in the SRA Handbook)</p> | <p>4.3-4.4 of the Practising Regs and 8.8 of the ARs</p> <p>8.9 and 8.10 of the ARs</p> <p>23.1, 24.2 and 25 of ARs</p> <p>18 of ARs</p> <p>18.2 of the SRA Practice Framework Rules (PFRs)</p> <p>18.3 of PFRs</p> <p>18.4 of the PFRs</p> |  | <p>There is a long list of specific reporting requirements as well as some very broad ones to report 'relevant information' and 'material changes' to relevant information to the SRA. Presumably 'relevant' means relevant to the SRA's job as regulator. To cover these broader requirements the SRA's indicative behaviours in chapter 10 appear to advocate reporting to it all significant business developments as well as noteworthy staff issues, including:</p> <ul style="list-style-type: none"> <li>• any indicators of serious financial difficulty, such as inability to pay for insurance, overheads or honour bank covenants</li> <li>• if your firm may no longer be financially viable, for example because of difficult trading conditions, poor cash flow, increasing overheads, loss of managers or employees and/or loss of sources of revenue</li> <li>• 'significant changes' to your firm, for example, key personnel, such as a partner, COLP or COFA, joining or leaving the firm; or a merger with, or an acquisition by or of, another firm.</li> </ul> <p>In considering what else is 'relevant' in terms of individual staff members, the list of relevant factors in the SRA Suitability Test appears to be a reasonable indicator:</p> <ul style="list-style-type: none"> <li>• criminal offences, cautions and warnings</li> <li>• dishonest, violent or discriminatory behaviour</li> <li>• abuse of trust or position of authority</li> <li>• assessment offences, such as cheating in an exam</li> <li>• IVAs, CCJs or other indications of not being able to manage finances properly</li> <li>• removal from office of trustee for a charity by order</li> <li>• director disqualification or offence under the Companies Act</li> </ul> |
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| <p>- for individual solicitors, registered European lawyers and registered foreign lawyers, if the individual is committed to prison in civil or criminal proceedings, is charged with or convicted of an indictable offence, is made the subject of bankruptcy proceedings (which would result in immediate suspension of a practising certificate under section 15 of the Solicitors Act), makes a proposal for an individual voluntary arrangement or is a manager of a firm which makes a proposal for a company voluntary arrangement or a partnership voluntary arrangement under the Insolvency Act 1986, is admitted as a member of a legal profession of a jurisdiction other than as a solicitor, is made subject to disciplinary proceedings (other than by the SRA, though see rules for details), sets up a practice or becomes an owner of a practice other than one regulated by the SRA (see the rule for details), changes their name or ceases to practice</p> | <p>15.1 and 15.2 of SRA Practising Regulations</p> |  | <p><b>process:</b> the fact that the reporting requirements are in secondary legislation (the SRA Handbook is made under various Acts of Parliament) could be helpful in terms of the firm's duty to keep certain information, such as personal data, confidential. Even so, firms may consider clarifying in the contracts with staff and owners (including partners) that the firm will report information as required by the Handbook to the SRA, that the individual consents to this and a process for resolving any lack of clarity (such as seeking advice from SRA Professional Ethics and a subsequent decision by a senior partner, which is final). The SRA Code of Conduct (10.4) does stress that client confidentiality may need to be considered in some circumstances, though in practice this may be rare. Guidance could potentially be sought from the <a href="#">SRA professional ethics team</a> and the <a href="#">Information Commissioner</a> free of charge if issues arise</p> <p><b>process:</b> consider preparing a checklist of the reporting requirements and a process for central reporting (via the COLP for example) to the SRA. The team or individual who deal with human resources issues for example will need to know who to report new partners joining or leaving the firm to. Staff should also be clear on what to report in order for the firm to fulfil its obligations (as well as the individual's responsibilities). Training staff on the reporting requirements will be important</p> <p><b>process:</b> noting the reports to be made following certain decisions and business developments (to Companies House for example as well as the SRA) could be a regular item for senior management / Committee meetings</p> |
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| <ul style="list-style-type: none"><li>- if a sole practitioner dies (temporary emergency recognition would likely be needed too - see the rules for details)</li><li>- if the firm has held client money, deliver an accountant's report</li><li>- relevant information which the SRA requires COLPs and COFAs to report (see our website for details)</li><li>- for individual solicitors and registered European lawyers, changes to their place (or places of business) - see section 84 of the Solicitors Act 1974</li><li>- if you are an ABS or an owner of an ABS, to report certain changes or proposed changes to ownership structure (see SRA guidance on <a href="#">holding a restricted interest in an ABS</a>) under Schedule 13 of the Legal Services Act (see paragraphs 10, 11, 21 and 22)</li></ul> | <p>4.5 and 4.6 of SRA Practising Regulations</p> <p>32 of the Accounts Rules</p> |  |  |
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| <p>To comply promptly with requests received from the SRA and cooperate with enquires by SRA and Legal Ombudsman. This includes:</p> <ul style="list-style-type: none"><li>- providing documents requested by the SRA in certain circumstances</li><li>- give permissions (to third parties presumably) to release certain information to the SRA in certain circumstances</li><li>- move forward potential claims for redress against the firm where requested to do so by the SRA</li><li>- comply promptly with requests for information from the SRA and co-operate fully with enquiries received from the SRA and the Legal Ombudsman</li></ul> | <p>10.6 and 10.8 - 10.11 of the SRA Code of conduct, 18.1 of the SRA Practice Framework Rules and 8.7 on information reports and 8.7(b) generally and of SRA Authorisation Rules</p> | <p>Firm and all staff</p> | <p><b>ownership and process:</b> consider requiring all enquiries from the SRA, with the exception of standard applications and day to day guidance queries to the SRA's Ethics team, to be dealt with centrally, by the COLP or his or her team for example. This would mean that the experts in these requirements in the firm can deal with the relevant SRA requests. Staff would therefore need to be clear on who to report SRA enquiries to in the firm.</p> |
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| <p><b>Dealing with third parties</b></p> <p>A brief summary of the SRA requirement</p> | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p> | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p> | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>   |
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| <p>To not take unfair advantage of third parties (inside or outside of work)</p>       | <p>11.1 of SRA Code of Conduct</p>   | <p>Fee earning staff</p>   | <p><b>values:</b> what the SRA appear to be most concerned with here are communications with lay individuals. Staff should be clear that if a lawyer is instructed in a matter then communications should generally speaking be with the lawyer not with their client (see IB 11.4). Staff also need to take care where a client has no legal representation not to take advantage of the lack of legal knowledge and not to request sums of money from people when there is not a sound legal basis for such a liability. See IBs 11.7 - 11.10. There have been some interesting cases on <a href="#">'speculative invoicing'</a> which illustrate well the issues (though the decisions in these cases to date may be subject to appeal)</p> <p><b>process:</b> consider a central sign off process (by the COLP for example) for standard letter before action letters where it is known that large numbers of the letters will be received by unrepresented individuals, such as bulk debt recovery contracts. Make sure that there is a proper case to support the demands made and that the only reason third parties are paying out money is because of a lack of legal knowledge or means to seek advice.</p> |

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| <p>To perform all undertakings given on time or within a reasonable time scale if one is not specified</p> | <p>11.2 of SRA Code of Conduct</p> | <p>All staff</p> | <p>The definition of an undertaking is very broad. It could include any statement by any member of staff that the firm will or will not do something to someone who reasonably relies on that statement. The SRA's definition makes it clear that the word 'undertaking' does not need to be used and that the statement does not need to be in writing. Firms will need to take great care that staff firstly understand this definition and the need to state that an agreement to do or not do something is subject to certain conditions being satisfied if that is the case.</p> <p><b>process and precedent:</b> the SRA seems to advocate firms adopting a system of recording when undertakings have been given and when they have been discharged (see IB 11.5). A clear prohibition on staff making unqualified statements about what will or will not be done to third parties and a sign off (by a line manager or partner for example) before undertakings are also sensible steps to consider. A precedent for commonly given undertakings (in conveyancing for example) which include the conditions which the undertaking is subject to and a general template for undertakings should also help mitigate risk in this area. Consider including in the templates details of who the third party can contact if they are concerned about how the undertaking has been or is being fulfilled. This would allow for another potential check and balance before matters escalate.</p> |
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| <p>Where you act for a seller of land, you inform all buyers immediately if the seller intends to deal with more than one buyer</p> | <p>11.3 of the SRA Code of Conduct</p> | <p>Fee earning staff doing conveyancing work</p> | <p><b>process (including file reviews):</b> consider including a check as part of the file opening process in conveyancing matters for whether there is more than one buyer involved. If so, the line manager should confirm that the relevant notifications are being sent been done with the staff member in question. Consider checking for this issue in file reviews in conveyancing matters</p> |
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## SRA Authorisation Rules (where an application to the SRA is not being made)

| <p><b>Requirement</b></p> <p>A brief summary of the SRA requirement</p>   | <p><b>Rule or regulation</b></p> <p>Where in the Handbook is the full requirement?</p>                 | <p><b>Key people</b></p> <p>Who will this requirement impact most upon in the firm</p> | <p><b>Things to consider</b></p> <p>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business</p>   |
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| <p>To have a compliance officer for legal practice (COLP) and a compliance officer for finance and administration (COFA) and to have suitable arrangements in place to make sure that the COLP and the COFA can fulfil their duties</p>   | <p>8.5 of SRA Authorisation Rules and for sole practitioners 4.8 of the SRA Practising Regulations</p> | <p>Firm and partners</p>   | <p>There is a comprehensive guide to the COLP and COFA requirements available free of charge on our website. The COLP and COFA have specific duties to facilitate, monitor and report non-compliance to the SRA.</p>  |
| <p>To have approved by the SRA all partners (or members if an LLP or directors if a company etc) and others with an ownership interest in the firm (including the directors and members of any incorporated body which is itself a partner / member / director etc of the firm)</p> | <p>8.6(a) and part 4 of the SRA Authorisation Rules</p>  | <p>Firms and partners</p>  | <p>This requirement was introduced in 2011 and means that if a new member is joining the partnership the firm will need the approval of the SRA before that person takes on that role.</p> <p><b>process:</b> when there are partnership changes part of the process should include checking that the individual will be approved by the SRA (in some cases it's easier because the SRA rules 'deem approval') in time to take on the partnership role. This should be done when the management of the firm make the decision to appoint new partners but educating those who deal with HR issues could also help make sure that this does not get missed. Consider adding this to a checklist of SRA reporting and authorisation requirements.</p> |

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| <p>Check to see whether individuals are subject to practising restrictions before employing them or making them a partner (or member or director etc). If they are then the restrictions must be adhered to</p> | <p>8.6(b) - (e) of the SRA Authorisation Rules</p> | <p>Firms and partners. It is particularly important that those involved in HR understand the regulator's expectations</p> | <p><b>process:</b> an individual (such as the person who deals with HR issues) should check for regulatory issues as part of its vetting / references checks for new staff. It appears sensible to check:</p> <ul style="list-style-type: none"><li>• for individuals regulated by the SRA such as solicitors, whether the individual is or has been struck off or suspended from practice or subject to practising conditions or prohibition on the removal of his or her name from the roll of solicitors (where there are serious allegations made against the person which are being investigated for example) - <a href="#">contact the SRA</a>;</li><li>• for individuals not regulated by the SRA such as paralegals or accounts staff, whether the individual has been the subject of an order under section 43 of the Solicitors Act which restricts firms from working with that individual - <a href="#">contact the SRA</a>;</li><li>• for both, whether they have been subject to a disqualification decision which prohibits them from holding certain roles in a firm which is an ABS but also by virtue of SRA rules a traditional law firm also - <a href="#">contact the LSB</a>;</li></ul> <p>These regulatory checks would be in addition to the usual prudent pre-employment checks ie always getting references to check prior employment and seeking sight of qualifications relied upon in the application process. The SRA has published some <a href="#">case studies</a> highlighting that it considers failure to carry out proper vetting a potential conduct issue.</p> |
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## SRA Practice Framework Rules (where an application to the SRA is not being made)

| <b>Requirement</b><br>A brief summary of the SRA requirement   | <b>Rule or regulation</b><br>Where in the Handbook is the full requirement? | <b>Key people</b><br>Who will this requirement impact most upon in the firm                             | <b>Things to consider</b><br>For firm wide issues you will in practice need to conduct regular files reviews and staff training (see key people). Here are some additional things to consider depending upon the size of your firm and the nature of your business   |
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| <p>For individuals such as solicitors, to only practise through a law firm which is itself authorised (ie by the SRA) to provide legal services (including sole practitioner firms). There are some exceptions for in-house lawyers and those practising overseas.</p> | <p>Regulations 1-4 of the SRA Practice Framework Rules</p>                  | <p>Solicitors, RELs and RFLs. Relevant for COLP and partners also in terms of overseeing compliance</p> | <p>These requirements are primarily for the individual lawyer to consider and are most likely to arise in scenarios where a lawyer is not practising in the usual way within a law firm also authorised by the SRA.</p> <p><b>ownership:</b> partners and others involved in firm operations should watch out for more unusual structuring arrangements and overseas practice and take responsibility for checking the relevant rules when a restructuring occurs.</p> |

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| <p>For staff and the firm to only do legal work which they are authorised to do and to not give the impression that staff are solicitors if they are not.</p> | <p>Rules 6, 7 and 8 of SRA Practice Framework Rules, 8.4 of the SRA Authorisation Rules and section 13, schedules 2 and 3 to the Legal Services Act 2007</p> | <p>Fee earners, line managers / supervisors of fee earners. Relevant for COLP and partners also re: oversight</p> | <p>Unqualified paralegals or similar should not be doing certain legal activities even under the supervision of a solicitor. Examples include the limits on rights of audience and certain steps in a conveyancing transaction. The rules set out a list of the activities which such staff should not perform and those which certain lawyers are authorised to perform. While it might be assumed that complying with the rules would mean compliance with statutory prohibitions it appears that the rules have their own definition of reserved legal activities. You should therefore also be familiar with the statutory prohibitions as in some respects these appear to be arguably wider than the prohibitions set out in the rules.</p> <p><b>process:</b> managers, fee earners and their line managers should understand that they have a responsibility to ensure that they and their staff do not stray beyond the boundaries of what unqualified staff and even qualified lawyers can do. Those supervising staff should watch out for the risk of clients thinking that they are dealing with a qualified lawyer if they are not.</p> <p><b>process (file reviews):</b> depending upon the nature of the work your firm undertakes and the staff employed, some firms might wish to include a check that fee earners are only doing work they are legally able to undertake ie where this is a high risk issue for the firm</p> |
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| <p>That all solicitors have a practising certificate (PC). Take care where solicitors are employed in non-fee-earning roles as the circumstances in which solicitors are deemed to be 'practising' is very wide. The rules prohibit solicitors on the roll and some other lawyers from participating in legal practice in any capacity other than as a solicitor / lawyer.</p>  | <p>Rules 9 and 11 of SRA Practice Framework Rules and section 1A of the Solicitors Act 1974</p> | <p>Solicitors. Relevant for COLP and partners also re: oversight</p> | <p><b>process:</b> most firms pay for the practising certificates (PCs) in the firm. Use this as an opportunity to add a simple check that all who need a PC have one. If your firm does not pay for the PCs, have a simple check of some sort to ensure that everyone who is supposed to have one has one.<br/><b>ownership:</b> assign a person to diarise important regulatory deadlines such as PC renewals</p>  |
| <p>You meet the SRA's basic requirements for practising through your chosen business model. For example, in a traditional law firm:</p> <ul style="list-style-type: none"> <li>• being authorised to practise as a 'recognised body' (the same obviously applies for sole practitioners and ABSs before they can practise in that way);</li> <li>• there is at least one person in the firm at all times who is 'qualified to supervise' ie a lawyer with at least 3 years experience who has completed the relevant training;</li> <li>• to not offer services other than legal services (see also the rule prohibiting the ownership of certain businesses outside of your legal practice in chapter 12);</li> <li>• for all of the partners / owners of the business to be lawyers or other law firms (for the moment there is a limited exception for <a href="#">Legal Disciplinary Practices</a>, though these firms will in due course need to become ABSs)</li> <li>• have a practising address in England and Wales and complying with SRA requirements on legal formation in the case of incorporated law firms such as LLPs and companies</li> </ul> | <p>Rules 10 and 12 - 17 of the SRA Practice Framework Rules</p>                                 | <p>Firm, partners and COLP.</p>                                      | <p>Most firms will meet these minimum requirements because otherwise they would not be approved by the SRA to a be recognised as a law firm in the first place. However, take care to ensure that during the course of business you continue to meet these minimum requirements. Look out in particular for proposals to provide services other than legal services and sudden personnel changes which may mean that you are left without a 'qualified to supervise' lawyer, a COLP or a COFA.</p> |

## The rest!

This checklist is intended to cover the key conduct provisions applicable to most firms. However, the majority of the Handbook provisions only applies in certain circumstances or are more concerned with how the SRA works than how the firm works.

There will however be other provisions which commonly crop up in the average law firm which the COLP will need to bear in mind. We've sought to signpost some additional key issues below to watch out for:

**SRA Accounts Rules** - we've put these provisions outside of this COLP's checklist as these are perhaps most important for the COFA. Clearly however these are extremely important rules for most firms to satisfy themselves of compliance with;

**Applications to the SRA** - there are a lot of important provisions on eligibility and procedure in the [SRA Practising Regulations](#) (where an individual is making an application to the SRA for a PC for example) and the [SRA Authorisation Rules](#) (for firms seeking authorisation as a law firm). Where applications are made, these provisions, the [SRA Practice Framework Rules](#) (on the ways in which you are permitted to practise) and the [SRA Suitability Test](#) (on how character and suitability are assessed) are where you should find everything you need to know;

**Taking on trainees** - there are some very important requirements set out in the [SRA Training Regulations](#), including CPD requirements.

**Financial services** - these are extremely important provisions and many firms will find that at least some of their work is covered by these additional requirements. It is a complex area and specialist input should perhaps be sought if in doubt. The [Financial Services Scope Rules](#) are particularly important to check to ensure that work does not stray outside the parameters of what is permitted. Under the SRA's rules most firms need to appoint an insurance mediation officer (IMO) and register with the FCA for insurance mediation activities;

**Insolvency services, higher rights and criminal advocacy and estate agency / property selling services** - the SRA has specific requirements which apply when these services are being provided. In some cases you need to be specifically accredited before undertaking the work;

**Separate businesses** - the SRA has placed quite significant restrictions on firms and solicitors setting up businesses separate to their SRA authorised law firms which provide any sort of legal service or advice. Check the rules carefully if you or colleagues are involved in other undertakings which could be described as providing legal advice to services;

**International legal practice** - this checklist focuses upon the position which applies to firms practising in England and Wales. A much lighter touch approach is adopted for practice outside of England and Wales in the [SRA Overseas Practice Rules](#). If working in Europe or with European lawyers, also bear in mind the [European Cross-Border Practice Rules](#);

**In-house legal practice** - this checklist focuses upon the position of those working in private practice, not in-house. Many of the [SRA Code of Conduct](#) provisions, for example, do apply to in-house practice however. The application of these provisions is dealt with at the end of each chapter of the Code and also in the application provisions in chapter 13. Other Handbook provisions including the [SRA Principles](#) will also need to be considered.