

Regulation Report

Risk Reviewed

Of all the various reports and alerts sent out by the SRA the Risk Outlook is probably the one of the greatest general interest to practitioners. The Risk Outlook, first produced in 2013 and regularly updated since, is intended to provide an overview of the legal sector from the regulator's perspective and is also intended to assist solicitors and law firms to manage the risks that they are exposed to. This will be particularly relevant if updating the risk register that the regulator expects all firms to maintain following guidance to do so in the SRA Authorisation Rules where the roles of COLP and COFA are dealt with.

The current report, dated 2016-17, was updated in early April. Although there are no major amendments, some of the updated comments and statistics will be of interest and also provide an insight to the ongoing review of the SRA Handbook, due for release late this year or early next. The updated report highlights seven priority risks, starting with the issue of **access to legal services**. Reference is made to the report commissioned in 2015 to the effect that 63% of respondents considered legal services to be unaffordable to ordinary people and 83% of small businesses considered them to be unaffordable to them.

Although there can be no denying that these figures are concerning, many will doubt whether the SRA's encouragement of shopping around on price comparison websites will actually address the problem given the risks that consumers will not be comparing like with like, especially for more complex services. The SRA also sees the relaxation of the Practising Regulations to be relevant here so as to permit solicitors to practise as such from unregulated providers such as will writing agencies. Many will doubt whether this is consistent with the SRA's priority of ensuring public protection given the potential for the unscrupulous or poorly managed business to mislead the public as to the quality of service on offer by employing perhaps a token solicitor to enable it to enhance its brand value.

As to the quality of provision there are concerns for **service standards**, especially for the vulnerable, and, **independence**, both in much the same terms as last year. Commenting on the personal injury market, concerns are expressed on limited bad practice encountered including commencing claims without the client's authority

to do so and, more remarkably, without their knowledge. However, it is not claimed that bad practice in this sector is as widespread as it had at one stage perhaps been thought.

Not surprisingly, **cyber-security** features as a priority risk. With various business surveys reporting increased fraud attacks, it should be no surprise that solicitors are experiencing similar problems. These are not confined to conveyancing work according to the report. Of the 99 reports to the SRA of cyber-attacks from fraudsters last year, some three quarters were attributable to email modification. There is a cautionary tale of a solicitor who obeyed a scam email apparently from the client and diverted monies unwittingly to the fraudsters. He also failed to report the incident to the SRA under Outcome 10.3. The practitioner in question accepted a regulatory settlement and a rebuke. As to the duty to report such incidents, the SRA advises that there is a duty to report to them any incident where client money is misappropriated, even if it is immediately repaid, and requests that all attempted attacks are reported to them to assist in their monitoring activities.

Another topical issue, **money laundering**, is covered and is also dealt with elsewhere in the SRA's response to HM Treasury in relation to the draft Money Laundering (etc) Regulations 2017 which are now out for consultation but which will probably take effect much as they are on the EU deadline date of 26th June later this year. Cases of **loss of client money**, sadly, continue but it is reported that payments from the Compensation Fund are down from £7.1m in the six months to January 2016 to £5.1 for the same period to January 2017.

The final risk is **diversity**, with the interesting observation that the West Midlands bucks the national trend with the make-up of the profession in our part of the world showing 22% BME membership as opposed to 17% of the local population.

To see the update report in full see <http://www.sra.org.uk/risk/outlook/risk-outlook-spring-2017-update.page>.



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