



SRA Risk Outlook 2017/18

July 2017

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Foreword

by Paul Philip CEO

We all live and work in a fast changing world. I think this makes it all the more important that people can place trust and confidence in the Rule of Law, legal services and those who provide them.

One of the ways we can help is to set out our view of the risks and the challenges that confront solicitors and law firms, and what can be done to address those issues.

Our new Risk Outlook sets out eight priority risks that matter to all solicitors and all law firms. These issues, if not managed, risk harm to the public, the Rule of Law and the proper administration of justice.

Many of these risks will be familiar to you. That is because challenges such as keeping information safe, cybercrime and compliance with anti-money laundering regulations do not go away and need your constant attention.

We have included one new priority risk this year – questionable investment schemes. We know that the numbers of solicitors who would willingly get involved are very small, but the harm to the public and potentially the reputation of the profession is significant. We want to help everyone recognise and avoid these dubious schemes. So we are setting out the type of case we have seen, as well as highlighting the poor outcomes many investors face.

You will also find information on making it easier for people to find the legal services they need at a price they can afford. We set out some of the key barriers people from every community face and what firms are doing to break down those barriers. Looking

ahead, we will be consulting later this year on how publishing more information can help.

One aspect of that may be about providing more information on how firms handle complaints and as you will see, standards of service continues to be one of our eight priority risks. Poor service often leads to people not receiving the help they need and that can have an even greater impact when someone is vulnerable. Complaints are a good indicator of whether a firm is meeting the service standards that we and its clients expect. This year we have commissioned joint research with the Legal Ombudsman into firm level complaints, so we can share lessons learned and good practice.

Independence and integrity, and the lack of diversity in the profession complete the set of eight risks. Both are fundamental to public trust and confidence and I urge you to look at the useful new content we have included in these sections.

We are changing how we regulate as we respond to the changing world. As you know, we are removing regulations that increase costs and get in the way of your aspirations. We are focusing on high professional standards and freeing up firms and solicitors to work in new ways, helping to make sure we have a modern profession in a modern legal economy.

This Risk Outlook will help you to respond to our changing world and manage the new risks it brings. I hope you find it both informative and useful.

Introduction

What is the Risk Outlook?

The Risk Outlook provides an overview of risks to:

- the protection of people who use legal services
- the operation of the Rule of Law
- the proper administration of justice.

The purpose of the Risk Outlook is to:

- help solicitors and firms manage risk
- show the priorities we allocate our resources to
- explain how we will play our part in addressing these risks in the public interest.

How to use the Risk Outlook

For each risk, we explain:

- why it matters
- trends
- actions solicitors and firms can take
- what we are doing to help to manage the risk.

Where relevant, we also give details on potential changes we see on the horizon.

To get best value out of the Risk Outlook, solicitors and law firms should think about how the risks apply to their own business.

Our assessment of risk is based on a wide range of input from across the sector. The Risk Outlook is not guidance, and does not contain exhaustive lists of obligations or actions. It should be used to raise awareness of the key risks that need to be managed.

Lack of access to
legal services

Many people and small businesses do not get the legal help they need. This can lead to poor outcomes for individuals, hamper business growth and hinder the proper administration of justice.

Why this risk matters

Our main purpose is to protect the public and support the Rule of Law and the proper administration of justice. A lack of access to legal services, particularly for those most in need or vulnerable, is a concern for us. Our paper, *[Improving access: tackling unmet legal needs](#)*, discusses this in more detail.

We know that many people with legal problems do not get help from a solicitor. More than half of UK adults faced a legal problem in the last three years.¹ But only one third of them got professional advice. And, only one in 10 took advice from a solicitor or barrister.²

People who are vulnerable are more likely to experience legal problems, but often do not seek help from solicitors.³ There is a risk that vulnerability is increased without the appropriate legal support.⁴

Businesses face challenges accessing legal services too. The majority of small businesses do not use solicitors or law firms. When they need legal advice, they are more likely to go to accountants than solicitors.⁵

There is a risk that people are not able to make informed choices about the best course of action because there is not enough clear information available to them.⁷ For example, some people find it hard to compare prices in the legal market, due to a lack of publicly available information. People are likely to benefit from information about prices and the quality and service they can expect.

Barriers to accessing legal services from a solicitor include:

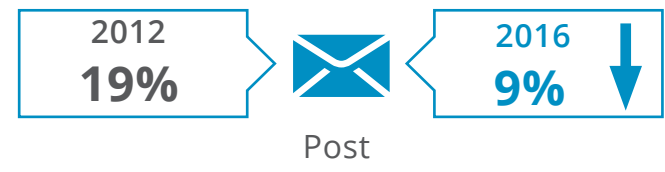
- cost and the perception of cost
- lack of local services
- lack of information to help people compare providers
- not being aware a problem is 'legal' issue
- feeling a problem is too complicated and will never be resolved
- lack of trust in professional advice
- not knowing if the benefit of taking action is worth the time or cost.⁶

Trends

There have been some changes in the way people choose and use legal services over the last five years.

CHOOSING LEGAL SERVICES

USING LEGAL SERVICES



Source: [Tracker Survey, Legal Services Consumer Panel, 2016](#)

What solicitors and firms can do

Solicitors and firms are already improving access to legal services in a number of ways.

Market growth and innovation

A growing and diversifying market can increase the range of services available and improve consumer choice. For example, solicitors and law firms can:

- increase brand awareness through marketing and form new business approaches to broaden the types of services offered by a firm⁸
- partner with other professionals in a multi-disciplinary practice to deliver a package of professional services under one roof
- obtain external capital and non-legal expertise in an Alternative Business Structure
- offer online services that allow access to expert legal advice that some people would not otherwise be able to purchase⁹
- outsource parts of work and use paralegals, artificial intelligence and document review services to reduce costs.¹⁰

Affordable services and clear pricing

We know that many firms benefit from advertising clear, affordable prices to attract clients. The increasing use of fixed fees helps people decide if they can afford the cost. People can also compare the price of different providers and make a more informed choice when they are shopping around for a legal service if the fees are visible.

Many people want to do part of the legal work themselves and then have a solicitor help on a specific element. This is called an unbundled service. Unbundled legal services allow people and businesses to manage the costs of using a solicitor, while getting the support they need. Our paper, [Improving access: tackling unmet legal needs](#), has more information on unbundling.

Clear communication and information

Solicitors and firms are using technology to improve efficiency, communication and access to information. Website development has become one of the highest areas of investment for firms over the last few years.

Firms are also finding new ways of working face-to-face with vulnerable or hard to reach communities. Many firms are increasingly using clearer, Plain English language to explain legal processes to people.

CASE STUDY

Developing policies that improve services

"We used the SRA's '[Providing services to people who are vulnerable](#)' report to produce a policy and training for staff. We make reasonable adjustments for clients who are vulnerable, which ultimately improves access to legal services ensuring high standards of client care and engagement. It seems there is a poor perception of legal services and we want to address this by being approachable.

We also centralised our complaints process, so there is an independent contact for complaints and each complaint is acknowledged, investigated and responded to promptly. The outcomes are then logged, categorised and reported to our Risk Committee to use complaints as a tool for improvement. Our quality assurance process independently audits files to improve consistency and quality. Each audit is scored and reported quarterly to our Partners and Risk Committee, promoting governance and integrity."

Mid-sized firm in the East Midlands

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We regulate in the public interest, so it makes sense that we do what we can to help the public access the legal services they need. We have already made changes that make it easier for firms to offer accessible and affordable services such as unbundling services, firms reorganising their structures, helping clients that are more vulnerable and taking on more pro bono cases.

**Crispin Passmore, SRA Executive
Director, Policy**



What we are doing

We are supporting solicitors to widen access to legal services through our [regulatory reform programme](#). And we want to improve the information available to the public to help them choose the provider most suited to their needs.

Reforms

We have already removed barriers to greater growth and innovation by reforming our separate business rule, and making the authorisation of multi-disciplinary practices more straightforward. But there is more to do. We are continuing to reform our regulation to make sure solicitors and firms have the flexibility to meet legal need. This includes:

- opening up opportunities for solicitors to freely deliver some legal services to the public outside of a firm we regulate
- having short, separate codes of conduct for firms and individual solicitors to reduce unnecessary regulation and make our requirements easier to understand and comply with
- simplifying our Accounts Rules to allow more flexibility where appropriate.

We plan to make further changes, including:

- reforming our authorisation and practising rules and introducing a new enforcement strategy
- considering what changes might be necessary to professional indemnity insurance requirements, to make sure solicitor insurance better reflects the risks posed to their clients and their business.

Improving information

We are making the legal market more transparent by increasing the availability of useful information. For example, our [law firm search](#) tool provides accessible, free data about all SRA regulated firms. We also share this basic data with third parties such as comparison websites to help make more information available in different ways.

We will be consulting later in 2017 on how we can best provide the public with meaningful and useful information about solicitors. Part of this will be looking at what information we should ask solicitors and firms to make available to the public.

We continue to support the [Legal Choices](#) website, which provides clear information to people who may have a legal problem. Information includes the regulatory protections available to people, as well as practical tips about choosing the right lawyer and how to pay for their services.

Spotlight on: SRA Innovate

By supporting firms to provide new services in new ways, we hope to help to improve access to legal services. SRA Innovate is an initiative available to all existing firms and new entrants. It offers information on the types of innovation taking place in legal services, as well as information on how IT can help law firms. Through SRA Innovate, solicitors and firms can:

- explore new ways of running their business and introduce original ideas in our [Innovation Space](#)
- join our [Innovate virtual reference group](#) to share thoughts about how our regulation affects innovation and growth in legal services
- attend our Innovate conferences, and view previous events in our Innovation Space
- [let us know](#) of any ideas they have where regulation might be a barrier to innovation, as there are things we can do to help, such as applying our waivers policy.

Standards of service

People rely on solicitors to help them at difficult times in their lives. It is important they give competent advice and support.

Why this risk matters

We set the high standards of behaviour and professional competence expected of solicitors and law firms in our Principles, Code of Conduct and Statement of Solicitor Competence. These help make sure clients receive a good standard of service and that the Rule of Law is upheld.

Poor service often leads to people not receiving the help they need. This can have a greater impact when someone is vulnerable, for example, because they are going through a stressful situation or if they are at risk of harm.

If a person or small business feel they have received a poor service from a solicitor, they can complain to the solicitor, and ultimately the Legal Ombudsman. When we are contacted by clients who want to complain about the service received by their solicitor, we refer them to the Legal Ombudsman.

Where there is evidence of a serious breach of our standards we will take action in the public interest. For example, incompetence that causes serious harm or a pattern of poor quality service. We are proportionate and targeted in any enforcement action we take. This includes issuing warnings and fines, and controlling how a solicitor can practise. In the most serious cases, we may close a firm or refer a solicitor to the Solicitors Disciplinary Tribunal, which has the power to prevent a solicitor from practising again.

Trends

Service complaints

Complaints are a good indicator of whether a firm is meeting the service standards that we and its clients expect. They also help firms to learn which aspects of their services could be improved.

Complaints made directly to law firms are called first-tier complaints. If someone is unhappy with how a law firm has responded to their complaint, they can make a second-tier complaint to the Legal Ombudsman.

Delay, failure to advise, and excessive costs are the most common types of first and second-tier complaints (figure 1). There has been little change in these common types of complaints over the last few years.

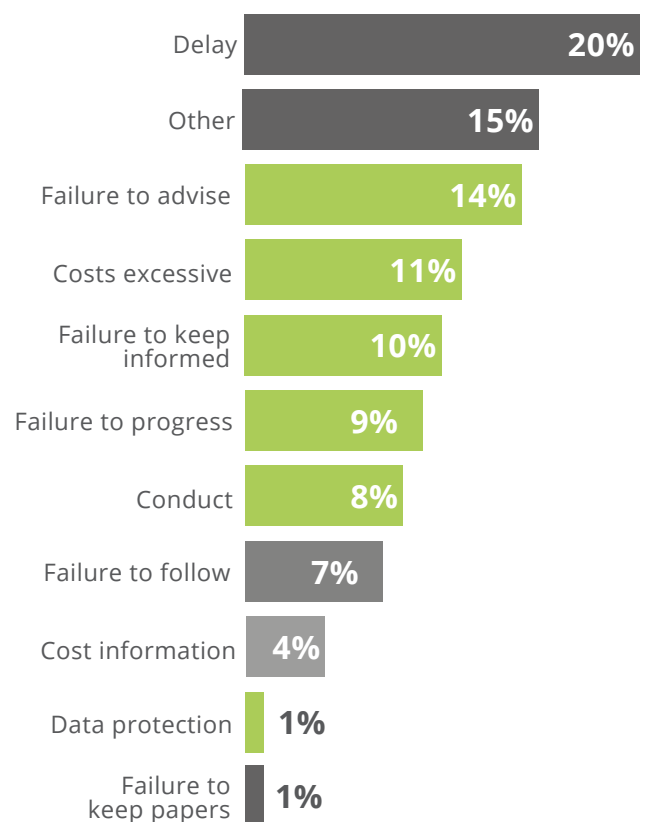


Figure 1:
First-tier complaints by
type of complaint (as
reported by firms to us)

Spotlight on: Criminal practice work

Poor standards of service in criminal practice can severely harm people in the criminal justice system. And, the public's interest in criminal court cases means that if there are issues surrounding a professional's competence in this setting, there can be a wide impact on confidence in the profession.

We are conducting research on the criminal sector and carrying out a review into criminal advocacy. This will help us to better understand client experiences and professional standards in this area.

To help solicitors who are advocates in the youth court, we have developed some [supporting resources](#), which are available on our website. This gives practising insights into this area and tips on delivering high standards.

Spotlight on: Asylum

People seeking asylum are particularly vulnerable because they may be fleeing from torture, imprisonment or death in their country of origin. People using asylum services include unaccompanied children, people who speak or understand little English, or people who might be homeless.

In 2016, we published [independent research](#) assessing the quality of legal advice that solicitors provide to asylum seekers. The research identified good practice but also raised concerns over some solicitors' conduct, competence and behaviour.

For example, some solicitors lacked the skills to obtain and record sufficient, relevant information from asylum seekers, and showed a lack of knowledge about the specifics of a case and the law underpinning it.

We followed this up by visiting 52 firms to review their practices and behaviour in detail. We are working with firms to improve standards and taking action to protect the public where necessary.

Year-on-year, the highest number of second-tier complaints usually concern work relating to conveyancing, family law, personal injury and wills and probate (figure 2).

These areas of law and types of poor service reflect common areas of work and show where people are likely to experience problems.¹¹

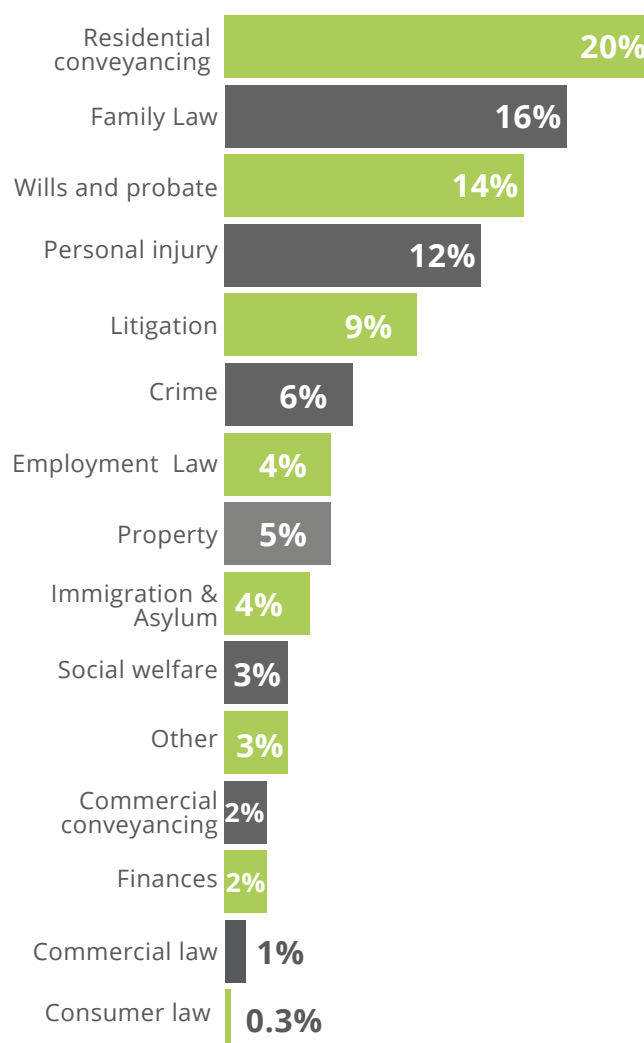


Figure 2:
Complaints received by the Legal Ombudsman 2013 to 2016 by area of law

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So many of the complaints that we see could be avoided if law firms had provided clear, transparent cost information or communicated better with their client. Over the next 12 months, we look forward to continuing to work with the SRA and other regulators to learn from complaints and champion best practice in order to improve the consumer experience and, ultimately, drive down complaints.

**Kathryn Stone OBE, Chief Ombudsman,
Legal Ombudsman**



What solicitors and firms can do

Providing a good service includes helping people to understand the legal process, progressing work on time and providing accurate legal advice. Here are some actions that solicitors can take to improve their service:

- Client care information should be clear and concise, with key areas highlighted.
- When someone may be vulnerable, solicitors should give them information and support suitable to their needs.¹³ People may need to be signposted to other services, such as financial advisers, housing support or counsellors.
- Solicitors have to inform their clients of complaints procedures and respond to all complaints promptly and fairly.¹⁴ The Legal Ombudsman has advice about good complaints handling on their website, and can advise firms in more detail if required.¹⁵

Our Statement of Solicitor Competence (section C2) explains that solicitors must “establish and maintain effective and professional relations with clients”. This includes:

- treating clients with courtesy and respect
- providing information in a way that clients can understand, taking any vulnerabilities and personal circumstances into account
- meeting the service needs of all clients, including those who are vulnerable
- managing clients’ expectations about options, possible outcomes, risk and timescales
- agreeing the services and a clear basis for charging
- keeping clients informed about risks, progress and costs
- responding to concerns and complaints.

SRA Principles five and six and chapters one to three of our Code of Conduct explain more about the service that solicitors should give.

Spotlight on: Conveyancing

In the year to March 2017, more than one million people engaged with conveyancing legal services in England and Wales.¹²

Buying a house is often people’s largest ever purchase and most conveyancing transactions are completed without any problems. However, residential conveyancing is the area of law that generates the most complaints to the Legal Ombudsman.

Many of our regulatory activities relate to this area of law as well. For example, the Compensation Fund made payments of more than £3.7m between November 2016 and March 2017 that related to conveyancing claims. And, around half of all claims to professional indemnity insurers are about conveyancing.

To understand what the issues and problems are, we are carrying out research into conveyancing. This will help us to better understand buyers’ experiences of using conveyancing services. The research is due to be published at the end of 2017. Findings from the research will guide our regulatory approach to making sure the public are protected.

What we are doing

We plan to introduce two clearer, shorter codes of conduct before the end of 2018. These will make it easier for solicitors and the public to understand the standard of service we expect solicitors to provide. The codes will have a greater focus on professional standards, rather than on compliance with prescriptive rules.

We have jointly commissioned research with the Legal Ombudsman considering clients' and firms' experiences of first-tier complaints. We are speaking to people that have used a solicitor to understand their experiences of the first-tier complaints processes. As well as talking to solicitors to understand how they handle complaints. We are seeing some good practice as well as areas for improvement.

CASE STUDY

Firm had to pay out almost £27,000 after failing to properly inform a client

An Indian national instructed a firm to make an application for leave to remain. This was unsuccessful and so the firm asked for the Home Office's decision to be judicially reviewed. The review concluded that the decision was reasonable and the client had to pay the Home Office's legal costs of more than £20,000.

He was unhappy with a number of aspects of the firm's service, including that it had failed to inform him that he might have to pay these costs.

The Legal Ombudsman concluded that the firm had not provided a client care letter. They said the firm's advice on the judicial review application did not warn the client that he could be liable for the Home Office's costs if the application was unsuccessful.

The Ombudsman ordered the firm to refund its client's fees, compensate him £1,000 and reimburse the Home Office's costs – totalling more than £26,900.

CASE STUDY

Misconduct in lasting power of attorney work led to a paralegal being banned from working in law firms

A paralegal failed to make sure that her clients signed a section of their lasting powers of attorney (LPA) forms. Instead she signed the names herself instead of asking the client to sign later.

The LPAs were then sent to the Office of the Public Guardian and registered. When the clients received them, they noticed that it was not their signatures on the forms. They pointed this out to the paralegal, who told them that new documents would have to be executed. She did not explain why the signatures were different. The clients complained to the firm, which dismissed the paralegal.

We decided that the paralegal had failed to act with integrity, failed to act in the clients' best interests, and acted in a way that diminished the trust the public places in her and the profession.

She accepted a regulatory settlement agreement with us, admitting her misconduct. She agreed to a section 43 order, which means she cannot work for another firm without our permission. She also agreed to a rebuke and a £1,000 fine.

Firms have an obligation to make sure that the work of all staff is supervised and meets the required standards.

Investment schemes

Promoters of questionable investment schemes know that if they can involve a solicitor, then potential investors may find the scheme more credible.

Why this risk matters

The promoters of questionable investment schemes often try to legitimise them by involving solicitors and law firms. This lends credibility to what they are doing and provides comfort to investors.

It also provides the promoter with a significant opportunity to move money through a firm's client account.

These kinds of schemes often target vulnerable people or older people with access to capital. They attract investors by offering higher returns than those possible through conventional investments.

Very few solicitors would ever become involved in these schemes. However we have seen cases where solicitors and law firms have become involved in a number of ways:

- Acting for the promoter.
- Acting for potential investors.
- Acting for both.
- Passing investors' money through their client account, sometimes as an "escrow agent".

The promoters often tell investors that the solicitor's insurance and the Compensation Fund will protect their investment. This is not necessarily true.

If they agree to move money through their client account, solicitors can find themselves in breach of our Accounts Rules. These do not allow solicitors to provide banking facilities.

Trends

Examples where a solicitor or law firm has been used to legitimise questionable schemes include:

- new build property abroad – often described as "off-plan"
- hotel room leasing
- bank instrument trading
- carbon credits
- diamond trading.

It is possible to buy and sell some products used in questionable schemes (such as diamonds) through established markets. But many products offered in investment schemes are not suitable or genuinely available for "investment" by members of the public. It is highly unlikely they will produce anything like the kind of profits stated by promoters.

Reports we receive

Rule 14.5 of the SRA Accounts Rules 2011 says:

"You must not provide banking facilities through a client account. Payments into, and transfers or withdrawals from, a client account must be in respect of instructions relating to an underlying transaction (and the funds arising therefrom) or to a service forming part of your normal regulated activities."

We have seen an increase in reports of banking facilities being provided through client account over the last three years with 32 reports in 2016. These reports can lead to us discovering a questionable investment scheme.

Some promoters and solicitors have tried to avoid rule 14.5 by creating spurious “legal services”, such as “certifications” where none are required. We are likely to allege that a deliberate attempt to evade this rule improperly is dishonest.¹⁶

Spotlight on: Land banking

Many people paid thousands of pounds for a small strip of land that they were told might increase dramatically in value. The scheme was found to be fraudulent. When sentencing a solicitor and others to terms of imprisonment, a judge commented:

“It was a subtle and cruel fraud because it involves the concept of owning land, a commodity that the public are bound to think has value and on which they cannot lose and on which they can easily be persuaded that they can make very substantial profits.”¹⁷

We have seen similar schemes involving hotel rooms, car parking spaces and storage units. Solicitors and firms acting for buyers need to advise their clients fully on these transactions. Including whether or not it is in their best interests to continue with the investment in light of the risks.

What solicitors and firms can do

Solicitors and law firms must not become involved in questionable investment schemes.

Good practice includes:

- reading our latest [Warning Notice](#) on conveyancing investment schemes
- reading all of our [Warning Notices](#) and following what they say
- carrying out due diligence on any promoter of an investment scheme
- not allowing the client account to be used as a banking facility
- not agreeing to give artificial advice or services which would give the false appearance of an underlying legal transaction
- remaining independent of a client
- not giving anyone the impression that they are a client if they are not
- not taking unfair advantage of people
- getting help and advice from our [Ethics Guidance team](#) to understand obligations and help with dilemmas
- carefully analysing any complaints or contact from people who are not clients but are affected by a transaction. This may help uncover a questionable scheme.
- checking to make sure a law firm is not being used as endorsement of a scheme without its knowledge.

The Financial Conduct Authority’s [Scam Smart page](#) contains advice on recognising the warning signs of investment fraud.

CASE STUDY

Questionable investment scheme

A solicitor was struck off after acting for clients in a transaction that had signs of money laundering and investment fraud.

The solicitor acted for investors in water purification technology. The scheme was alleged to be “tasked under UN compliance”, and offered returns of 50 percent within eight weeks of the start. The suggested involvement of international bodies, and the unrealistic level and speed of returns, are both known hallmarks of a fraud or scam.

The solicitor held the investors’ money in his client account, before distributing it to the promoter of the scheme. He undertook no legal work in relation to the investors.

The Tribunal found that the solicitor had provided banking facilities through his client account, that he had not complied with money laundering regulations and that he had acted in transactions which bore the signs of money laundering and fraudulent activity. In relation to one of the transactions, the Tribunal also found that the solicitor had acted dishonestly. The Tribunal decided to strike the solicitor from the Roll.

What we are doing

Guidance

Our latest paper on [investment fraud](#) and [Warning Notices](#) provide more information about the signs of a questionable investment scheme, and the consequences for those who become involved.

Taking action in the public interest

Where solicitors have allowed their client account to be used as banking facility, or have become directly involved in questionable schemes, we will take action to protect the public. Solicitors who act dishonestly or become involved in criminal activity can expect their case to be referred to the Solicitors Disciplinary Tribunal.

Information
security

The information that clients share with their solicitors can have great financial and personal value. Solicitors must know how to protect the information they are holding.

Why this risk matters

Solicitors and law firms handle very sensitive information. If that information is lost or stolen, it can harm their clients' interests.

Breaches of confidentiality can come about in many ways. Cybercrime is an increasing threat to the information solicitors hold. But written and verbally communicated information carries risks too:

- While being carried, physical files can be dropped or lost.
- Written information can be damaged or destroyed in a fire.
- A telephone conference with a client might be overheard.

The benefits of holding information electronically include:

- quick and easy encryption
- passwords and other security features to protect information
- data can be backed up easily
- information can be accessed anywhere and is cheap to store.

Protecting electronic information, however, does present its own challenges. It is easier to send an email to the wrong address than it is a letter. Cybercriminals do not need physical access to steal information.

If a solicitor or firm does not protect client confidentiality, they may also face legal consequences. The Information Commissioner's Office has the power to fine firms up to £500,000 for a range of data protection failures. We too will take action in the public interest.

Trends

We receive around 40 reports of confidentiality breaches each month. All solicitors and firms must take care to understand the threats and how to avoid them.

Although the loss of confidential information can have financial costs, it can also damage confidence in the legal services market. This is not unique to the legal profession. A 2016 survey of business leaders found that 86% said the biggest risk from information security was to their reputation.¹⁸

Cybercrimes and scams aimed at stealing information include:

- malware
- phishing and Vishing
- CEO fraud
- identity theft.

What solicitors and firms can do

Protecting electronic data

There are a number of steps that can be taken to prevent data breaches. These include:

- not opening attachments or links in emails unless certain they are legitimate
- using up to date antivirus software
- using supported software that allows updates to be applied
- making sure cloud providers are legitimate and that agreements comply with the Data Protection Act
- only using an administrator account when updating or maintaining the IT system
- keeping data regularly backed up to help recover from a ransomware attack.

Protecting physical information

Physical information can be protected by:

- making sure nobody nearby can read open files, in particular when working on public transport or in a public area
- carrying documents securely in a locked container
- making sure no one can overhear a sensitive conversation
- locking files away at night
- taking steps to prevent intruders from “tailgating” staff into secure areas
- making sure that confidential letters waste is processed correctly
- making sure both the firm and any outsourcer complies with regulatory requirements when outsourcing functions, such as archiving.

Malware



Harmful software including viruses and ‘ransomware’ programs that encrypt files and demand a ransom in return for a decryption key.

CASE STUDY

Email breaching client confidentiality

A paralegal was banned at working for law firms after breaching client confidentiality. They sent two emails to a former colleague, now working at another law firm, attaching documents relating to two clients. The other law firm was not involved in either of their matters.

In banning him from further work in law firms without our permission, we found that he had sent the emails when it “was not required for the proper and effective representation of his clients.”

Management and training

Information security is about people and processes as much as it is about the secure use of technology:

- Many cyber attacks target human error rather than seeking to compromise systems directly.
- Staff at all levels should be kept informed of developments.
- Senior management should have oversight and control of risks to information.

Reporting breaches and attacks

Failure to take reasonable steps to protect information can be a disciplinary matter under our Code of Conduct. Outcome 4.1 requires that:

- you keep the affairs of clients confidential unless disclosure is required or permitted by law or the client consents.¹⁹

If a solicitor or law firm loses client information it should be reported to us. We will take action as appropriate, considering all relevant circumstances.

We would also like know about any unsuccessful hacking attempts or incidents such as ransomware strikes. This will help us better understand the true picture of the information security threat to those we regulate and to give the best advice we can.

Further information on cyber security

[Cyber Essentials](#) is a government-backed scheme aimed at providing advice to all types of businesses.

It offers free materials to download, so any business can begin to assess their online security. In addition, the scheme offers two levels of badges to provide independent accreditation.

For specific advice on ransomware, the [No More Ransoms](#) initiative is a joint effort between police forces and cyber security experts that includes captured decryption keys for several “families” of ransomware. It also includes guidance and a reporting system.

CASE STUDY

Identity fraud against staff after phishing scam

A large law firm’s HR department received an email from a senior executive asking for staff payroll information. It responded with the details the executive asked for, which included names and financial information.

A short time later, some employees of the firm began reporting that they had been victims of identity fraud. The firm looked into this and found that a large proportion of their staff had been targeted.

The firm investigated, and learned about the email to the HR department. This had not been from the executive named, and had in fact been a “CEO fraud” phishing scam.

Phishing and vishing

A criminal uses email or telephone to obtain confidential information such as a password through building a personal relationship with a solicitor or law firm employee.



What we are doing

Protecting information, especially from online threats, is one of the subjects that solicitors most commonly ask us about.

Our paper, [*Information security: keeping information and money safe*](#), provides more information on common information security threats and on the best practice for how to deal with them.²⁰

We work with other regulators and specialists to make sure that we give the best advice on protecting information and that we are aware of the current issues. As part of this, we held a cyber security roundtable in March 2017 with industry specialists, academics, consultants and other regulators. This will become an ongoing working group to help us give the best advice to those we regulate.

When we learn about criminal activities or frauds targeting those we regulate, we issue [*scam alerts*](#) on our website to warn the public and law firms about known threats.

When a loss of client data is reported to us, we will take proportionate action, considering the facts of the case. We expect solicitors and firms to take reasonable steps to protect information, and to promptly report losses to us.

CEO fraud



A criminal impersonates a senior figure at a law firm through hacking their email address or purchasing a very similar email address, in order to impose authority and order money transfers.

CASE STUDY

Sensitive information revealed after files dropped

A solicitor working for a local authority took sensitive documents home to work on them, but dropped some of them in the street and lost them. The files were later handed in to the police.

The lost documents included sensitive data concerning child protection cases, including psychiatric reports.

The solicitor's employer took disciplinary action against the solicitor, and reported the matter to the ICO. The ICO obtained a binding promise from the local authority to put in place new policies about information protection when working from home or with sensitive documents.



Identity theft

Bogus firms copy the identity and brand of a law firm.

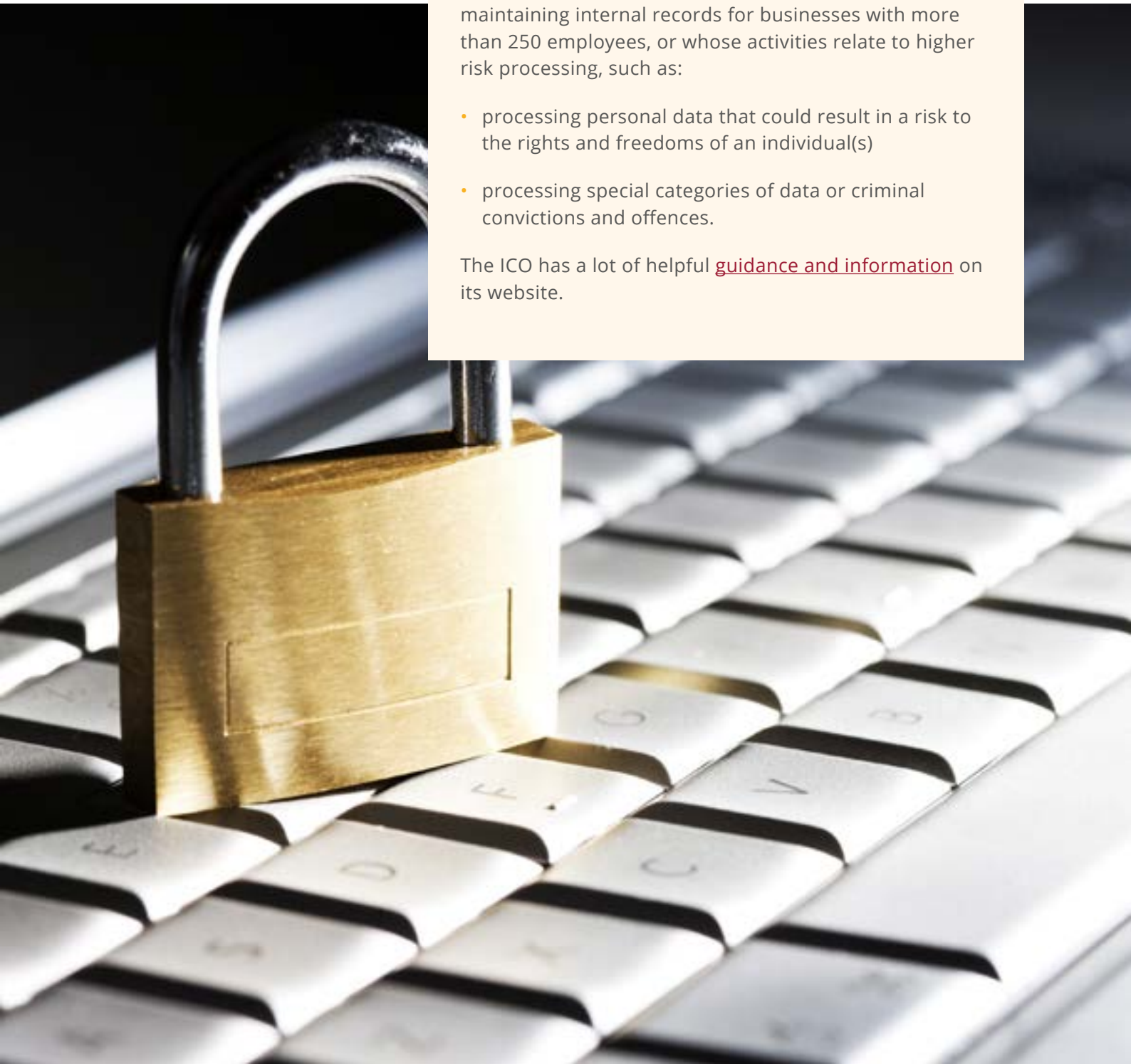
Spotlight on: The General Data Protection Regulation

The General Data Protection Regulation is due to come into force on 25 May 2018. Solicitors and law firms should already be preparing for compliance with the new regulations.

It will apply to all businesses that process personal data. There will be additional requirements, such as maintaining internal records for businesses with more than 250 employees, or whose activities relate to higher risk processing, such as:

- processing personal data that could result in a risk to the rights and freedoms of an individual(s)
- processing special categories of data or criminal convictions and offences.

The ICO has a lot of helpful [guidance and information](#) on its website.



Protecting client
money

Most solicitors and law firms protect the money their clients entrust to them. The consequences of failing to meet this obligation can be severe

Why this risk matters

Solicitors must meet high professional standards. The public places trust in legal professionals and protecting and maintaining this trust is a key part of being a solicitor.

Most solicitors and law firms hold money for their clients in a pooled client account. We know the number of law firms that fail to protect client money is low. However, it is essential that all firms, regardless of size and make up, have adequate systems and controls in place.

We have seen instances where client money has been misappropriated by law firm partners or employees. We also see cases where poor systems and controls have led to client money being misappropriated by third parties.

Aside from the obvious risks of client harm and reputational damage, firms who do not protect client money can indirectly create a cost to other law firms. This is through contributions to the Compensation Fund, which provides a safety net for clients who have lost out financially in certain cases, and through higher professional indemnity premium costs.

Trends

Misappropriation of money by solicitors

On rare occasions, we investigate a solicitor or law firm in relation to the misappropriation of client money. This is, clearly, one of the most serious forms of professional misconduct that a solicitor can commit. It is also likely to involve criminal offences. On average, we receive 43 reports of misappropriated client money each quarter. This is down from a peak of 54 reports at the start of 2016.

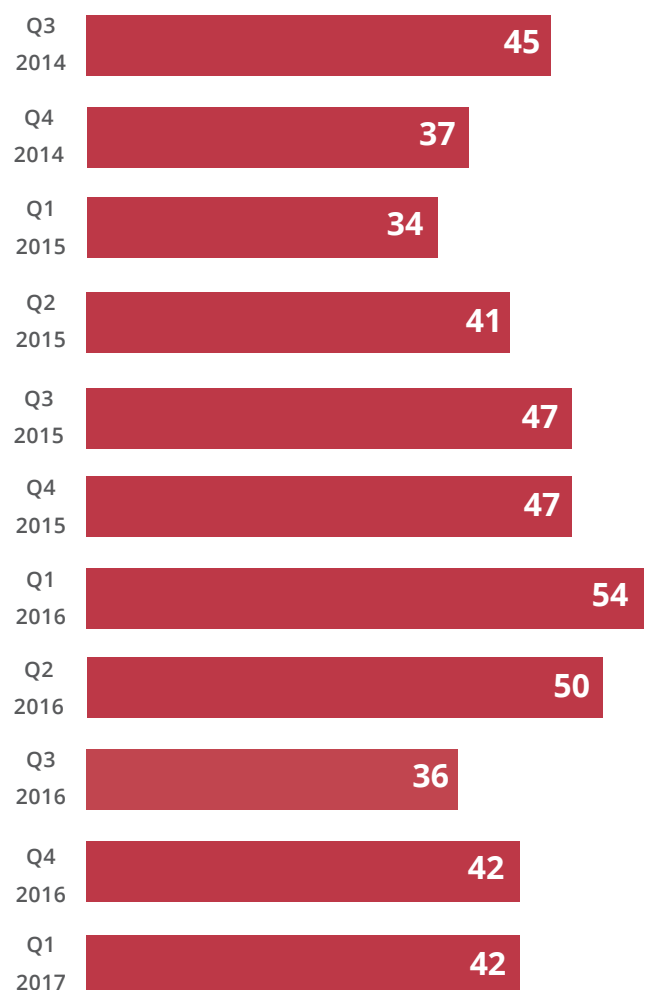


Figure 3
Reports of misappropriated client money per quarter

Failure to supervise others

If firms have staff with access to client money, then it is very important to supervise them appropriately. This should involve limiting access to client money only to those who need it. We see cases where employees of firms have misused money without their employer knowing.

Theft from outside the firm

Client money must also be protected from fraudsters and scams²², especially in conveyancing where money is at particular risk. High property prices mean that house purchases involve very large sums.²³ This leads to criminals going to considerable efforts, with the most commonly reported method being email modification fraud.

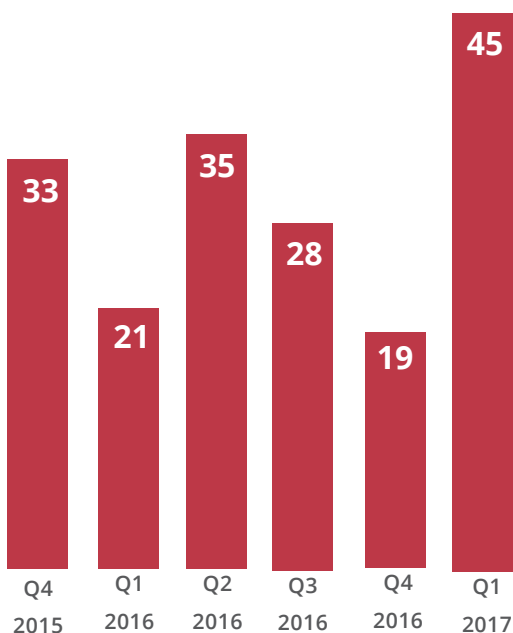


Figure 4:
Number of reported cybercrimes

CASE STUDY

Serial thefts by employee

An employee of a solicitors' firm was convicted in 2011 of theft of client money and given a suspended sentence. She was also barred from working for a firm of solicitors again.

Two years later, she changed her name and became a self-employed contractor offering conveyancing work to another solicitors' firm. She was dismissed after stealing £28,000. The firm reported this to the police.

In the meantime, she joined another law firm as a conveyancer, and had begun stealing money. She resigned after her previous employer contacted the new firm.

In 2017, she was sentenced to five years' imprisonment, having stolen more than £500,000 from the clients of three firms.

One of the firms employing her had not carried out a regulatory search or asked for identification documents. They had however carried out internet searches on her name. Another had obtained copies of her passport and driving licence in her new name. The third firm had recruited her through a consultant, and had relied on that agency for verification.

The case shows the risk that temporary employees can pose to client funds, and the importance of carrying out detailed vetting on those who will have access to money.²¹

Reports of cyber crime targeting client money

We receive regular reports of cybercrimes aimed at law firms, the majority of which are aimed at stealing client money. The first quarter of 2017 has seen a record number of reports.

From the first quarter of 2016 to the end of the first quarter of 2017, solicitors reported over £12m of client money stolen by cyber criminals.

It has been reported that there has been a 85% increase in thefts of property deposits in 2016, with 159 recorded in [The National Fraud Intelligence Bureau's](#) report.

More than half the value of all indemnity insurance claims by solicitors relates to conveyancing.

More than 60% of all cybercrimes reported to us are email modification frauds.

Bogus firms

Bogus firms can operate by copying a law firm's brand, or by setting up fake branch offices.²⁴ They often do this to steal mortgage loans. Firms should protect their own identity and confirm the identity of other firms that they deal with.

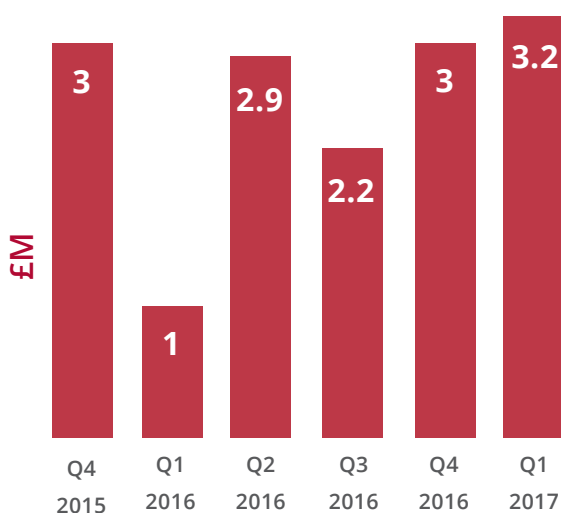


Figure 5:
Client money stolen by cybercrime

Spotlight on: Email modification fraud

This fraud happens when criminals impersonate a genuine person who is going through a property transaction, or some other process involving the transfer of money. They do this by breaking into that individual's email system or forging emails from it.

The criminals then contact the solicitor using the stolen or falsified address, and ask for their bank account details to be changed. They usually do this at short notice and when there is time pressure, for example on the afternoon of a property completion. The solicitor sends the monies to the new bank account and this is quickly moved on by the criminals.

We also see cases where the criminal impersonates the law firm and tells the client that the firm has new bank details. In these cases, the client sends the deposit and other monies to the fraudster's bank account.

This fraud is relatively common. When used to steal conveyancing money, it is also known as 'Friday afternoon fraud'.

What solicitors and firms can do

Systems and controls

Firms that hold client money need to have appropriate systems and controls to protect that money and to comply with the SRA Accounts Rules. They must be able to monitor how well these systems are working. Steps that they can take include:

- appropriate vetting, supervision and training of staff
- good accounts management and audit
- appropriate controls on the client account, including who can access it, when and how.

Email modification fraud

Any firm dealing with client money needs to be aware of email modification fraud, and to have a system to manage this risk. This can include:

- exchanging bank details with the client and any third parties at the start of the transaction, including the other party's conveyancer, and being clear that this will not change under any circumstances
- training staff to verify any email received that asks to change bank details, and to verify this by telephone to a previously known number
- taking care to protect information such as details of who their clients are, which criminals might use to identify targets
- considering using systems such as [Lawyer Checker](#) to verify that what is described as the contact or bank information for a third party law firm is genuine.

Reporting incidents

If client money is taken or misused, either by a staff member or an external criminal, the firm must report the matter to us promptly. They need to do this even if they have already replaced the money.

CASE STUDY

Escalating theft by solicitor to meet a tax bill

A solicitor was imprisoned and struck off the Roll after stealing £500,000 from a number of clients.

The solicitor owned his own business as a sole practitioner, but faced a tax bill that he could not afford. He began taking money from the client account to pay this. He stated later that he believed he could repay the money by selling property he owned, but was not able to do this.

He covered the losses by taking money owed to other clients. This caused a pattern of increasing delays on transactions as money from one case was being used to fund the shortfall on others.

The theft was discovered when he sold his business to another local firm. That firm was left with the need to repay the missing money to clients.

The solicitor was convicted of nine counts of fraud and one of forgery, and sentenced to four years of imprisonment.

What we are doing

Taking action in the public interest

Where solicitors and law firms report the loss of client money to crimes such as email modification fraud, we will respond proportionately. Where we have taken action against firms in such cases, it has been because they:

- did not have suitable systems to protect against crime
- did not replace lost money promptly
- did not report matters promptly.

Firms who knowingly misuse their clients' money are likely to be referred to the Solicitors Disciplinary Tribunal.

The Tribunal is clear that a finding of dishonesty will lead to a solicitor being struck off the Roll unless there are exceptional circumstances.

Scam alerts

When we learn about criminal activities or frauds targeting those we regulate, we issue [scam alerts](#) on our website to warn the public and law firms about known threats and to help them recognise patterns.

Reforming the Accounts Rules

We are reforming our accounts rules which exist to keep client money safe. The current rules, however, have not changed in many years. They focus on making sure all firms handle money in the same way, and are too lengthy and complex for new firms.

For example, more than half of the 9,000 firms holding client money received a qualified accountants' report in 2012–2013, but only 179 of these merited any regulatory action.

The changes include:

- simplification of the rules
- allowing firms that only hold fees and disbursements to choose whether they want to be exempt from using a client account
- making it easier to use alternatives to holding client money, by introducing clear safeguards around third party managed accounts.

See more information on this on our [Looking to the future](#) web pages.



All good solicitors know that they should not steal money belonging to their clients. We do not think they need – or benefit – from more than 40 pages of detailed accounts rules setting out how to avoid stealing.

**Crispin Passmore, SRA
Executive Director, Policy**

Money laundering

Solicitors and law firms must not enable money laundering and should keep up to date with new laws.

Why this risk matters

The legal market can be an attractive target for those wishing to launder the proceeds of crime. In some cases criminals instruct legal professionals to hold or transfer money because of the perceived legitimacy this offers. Solicitors and law firms are at an increased risk of being used to launder money because they:

- regularly hold large sums of client money in pooled client accounts
- advise and transfer money in relation to property and financial transactions.

There are a number of regulatory and legal obligations placed on solicitors and law firms in respect of anti money laundering and to counter the funding of terrorism.

This includes complying with:

- The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- Terrorism Act 2000
- Proceeds of Crime Act 2002
- SRA Handbook 2011 including SRA Accounts Rules 2011
- Criminal Finances Act 2017.

Solicitors have a duty to uphold the Rule of Law and support the proper administration of justice. Failing to meet their anti-money laundering obligations puts this at risk. For example, not performing proper risk-based client identity checks, or accepting payments into client account, which are not related to an underlying legal transaction, increases the risk of money laundering.

Inadequate controls can result in significant financial penalties. The Solicitors Disciplinary Tribunal recently issued its largest fine against a law firm. This was for allowing its client account to be used as a banking facility, and failing to comply with anti-money laundering obligations.²⁵

Trends

The National Crime Agency estimates that up to £90bn is laundered in the UK each year.²⁶ The proceeds can be used to fund further serious criminal or terrorist activity. There are many reasons why, now more than ever, anti money laundering should remain an area of strong focus for firms.

Suspicious activity reports

Money laundering reporting officers must submit a suspicious activity report if they receive information raising suspicions of money laundering or terrorist financing.²⁷ The level of reporting from the legal sector is just 1 percent of the total, but the number of reports has increased for the first time in seven years.²⁸

Reports of money laundering to us

The number of anti money laundering-related matters reported to us increased by nearly 20 percent in 2015/16, and has remained static at around 175 per year since. One-third of all anti-money laundering issues reported over the last three years relates to residential conveyancing, three times more than any other field of law.

Where we find that a firm has not complied with money laundering obligations we will take action. Around two-thirds of cases of wrong-doing are serious enough to be referred to Solicitors Disciplinary Tribunal.

What solicitors and firms can do

Firms will need to make sure they understand how the [Criminal Finances Act](#) and [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) apply to them.

The list below is not exhaustive, but good practice measures include:

- updating training for all staff members to make sure they are aware of the changes to anti-money laundering obligations
- making sure staff can conduct and document risk assessments
- promoting an ongoing risk based approach, and guarding against treating these obligations as a simple “tick-box” exercise.

Specifically, reporting officers can:

- plan for making sure the law firm is compliant with its obligations, particularly new requirements imposed by new laws and regulations
- risk-assess all internal procedures, update policies to reflect changes, and promote an ongoing risk based approach
- make sure record keeping procedures are in place, and carry out regular internal audits and compliance reviews
- submit suspicious activity reports whenever they detect suspicious activity, regardless of whether this resulted in a completed transaction, or if full details are available. The National Crime Agency provides [guidance](#)³⁰ on this.

Spotlight on: Criminal Finances Act 2017

Amendments have been made to Proceeds of Crime Act 2002, through the [Criminal Finances Act](#)²⁹. Provisions are expected to come into force this Autumn.

These will strengthen law enforcement, investigative powers and expand the powers to seize the proceeds of crime and combat corruption. Some of the key changes include:

- introduction of Undisclosed Wealth Orders requiring suspects to reveal the source of their wealth
- wider powers for law enforcement to freeze and seize bank accounts and assets
- disclosure orders to be extended to money laundering investigations.
- introduction of cross-organisation reporting, bringing together information from multiple sources (initially just for financial sector organisations but likely to be extended)
- increased sharing of information between regulated organisations
- powers to extend the moratorium period, during which reports are investigated
- new criminal charges for companies for corporate failure to prevent tax evasion.

What we are doing

We have statutory anti-money laundering supervisory responsibilities. This means we monitor and report on compliance as part of the [national risk assessment](#).

Actions we take vary from providing guidance and investigating compliance to taking action against firms who do not meet their obligations.

Guidance and support

We will be updating our guidance on the [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) during 2017. We are working with other regulators across the UK to provide a consistent approach.

Any action we take in relation to breaches of the new regulations will be proportionate and in accordance with our [enforcement strategy](#).

We recognise the short lead-in time businesses have been given to implement the new requirements. We will take a proportionate and pragmatic approach as firms take steps to comply with the new requirements.

We recognise that small firms in particular may face compliance challenges because of additional anti-money laundering obligations. Small firms can access our [small firms guidance page](#). If you have specific queries regarding professional ethics, please contact our [Ethics Guidance team](#).

Spotlight on: The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017

The [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) are now in force.

These regulations repeal and replace the Money Laundering Regulations 2007 and transpose the Fourth EU Money Laundering Directive into UK law.

All solicitors and law firms should comply with the new regulations. The new obligations cover a range of areas including:

- client due diligence
- policies, controls and procedures
- a central register of beneficial ownership
- politically exposed persons
- registration of trust and company service providers
- criminality testing.

Thematic reviews

Our [2016 thematic review](#)³¹ of anti-money laundering compliance found that generally firms are doing well. However there were some examples of poor practice and opportunities to make improvements. These included:

- weaknesses in applying due diligence
- identifying and dealing with Politically Exposed Persons
- establishing sources of funds and wealth
- making sure there is ongoing monitoring.

Some of these findings were replicated in a [recent survey by Accuity](#).³² The most common challenges for firms were:

- identifying and verifying beneficial ownership and corporate structure of overseas clients
- establishing clients' source of wealth
- performing ongoing monitoring checks efficiently.

We will be engaging with firms to follow up this review and look into their preparedness for compliance with the new regulations.

Taking action in the public interest

Where we find evidence of poor anti-money laundering practice we will take proportionate action, including referring matters to the Solicitors Disciplinary Tribunal.

CASE STUDY

Solicitor sanctioned for overlooking money laundering obligations

A recent [case](#)³³ resulted in a solicitor being sanctioned for overlooking "red flags" in a conveyancing transaction with an existing client. Customer due diligence was not followed, money was paid into the client account by an unconnected third party, and file notes were poorly kept.

The Solicitors Disciplinary Tribunal said the solicitor "fell short of what was expected of him and the consequences could have been dire... He had not behaved in a way that maintained the trust that the public placed in him and the provision of legal services and this would have harmed the reputation of the profession."

Further research

We are on a steering group for research into professional enablers, which is being conducted by the Institute for Criminal Policy Research at Birkbeck University.

On the horizon

Financial Action Task Force Mutual Evaluation Review

The Financial Action Task Force will begin its Mutual Evaluation review in 2018, the first since 2007. This will focus on whether existing laws in the UK give effect to the task force's global standards which promote the effective implementation of legal, regulatory, and operational measures to combat money laundering and terrorist financing. The evaluation assesses if anti-money laundering systems are working effectively, and meet the "[eleven immediate outcomes](#)"³⁴ upon which the task force characterises an effective anti-money laundering framework. These centre around clear and co-ordinated policies, effective supervision and legislation, and enhanced investigation and law enforcement powers.

Introduction of a new anti-money laundering regulator

HM Treasury has unveiled plans to create a [new regulatory body for anti-money laundering compliance](#).³⁵ There are currently 25 individual supervisory bodies appointed by HM Treasury, some of which overlap. The planned Office for Professional Body Anti-Money Laundering Supervision will operate within the Financial Conduct Authority's existing governance. It will oversee our work. It intends to improve co-ordination and overall standards of supervision, making sure that supervisors and law enforcement work together more effectively.

Independence
and integrity

People using legal services expect solicitors to act with independence and integrity at all times. Solicitors owe duties to their client, but also to the court and the wider public interest.

Why this risk matters

Public confidence in the provision of legal services is an essential part of the Rule of Law. We want to see a healthy legal services market that functions effectively in the public interest. Solicitors must meet high professional standards and this includes acting with integrity and independence.

There are a small number of solicitors who fail to meet these standards. For example, we have seen solicitors taking unfair advantage of an opponent or misleading the court. Acting without integrity and independence in litigation can lead to poor outcomes, which undermines the proper administration of justice. As their trusted adviser, solicitors owe duties to their client, but they also owe duties to third parties, the court and the wider public interest.

The duty to act with integrity and independence applies to all areas of legal practice. However, we have particular concerns about the conduct of some solicitors involved in certain types of litigation or claims, notably personal injury and payment protection insurance recovery.

Trends

Reports relating to a lack of integrity are rising.

Most investigations into these reports do not result in disciplinary action. Many reflect misunderstandings, from the opponent, of the solicitor's role. However, some cases result in fines, rebukes and, in the most serious cases, a referral to the Solicitors Disciplinary Tribunal.

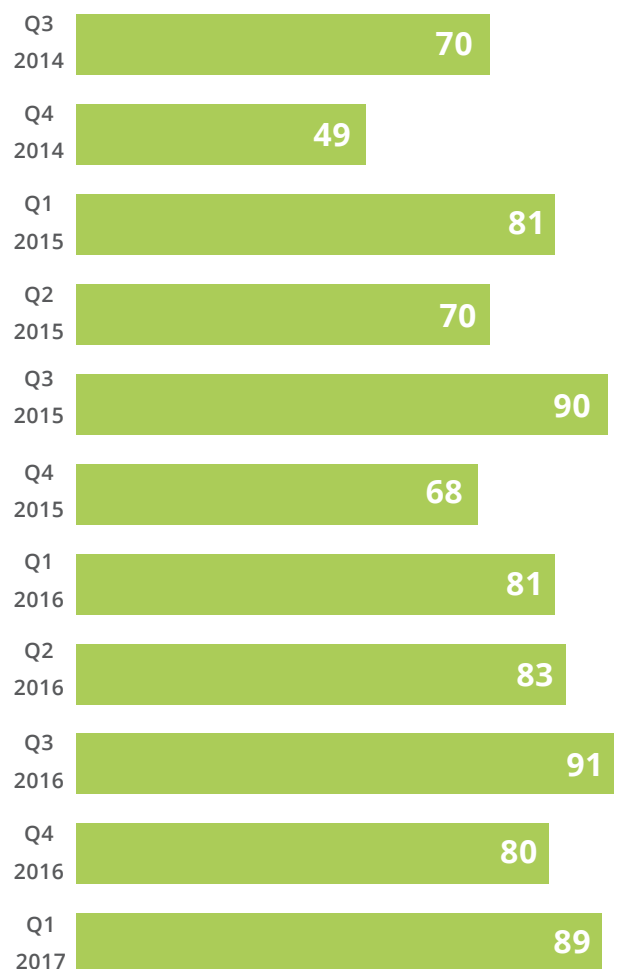


Figure 6::

Number of reports received of lack of integrity - breach of basic principles

Payment protection insurance

We continue to see cases relating to mis-sold payment protection insurance claims. When dealing with these claims, and other compensation schemes, solicitors and law firms must make sure that clients can make informed decisions. Their integrity may come into question if they pursue frivolous claims or do not explain to the client what the appropriate complaints mechanism for financial services is.

Issues of concern include:

- acting without investigating whether there is a valid claim
- failing to properly identify clients or confirm client instructions
- submitting claims in the knowledge that the client was not sold payment protection insurance
- charging disproportionate fees and not notifying clients of the Financial Ombudsman Service.

Personal injury

Personal injury services have been widely marketed across the country. Much of this work has been done by professional introducers and claims management companies. The presence of these third-party referrers means that solicitors need to be careful to make sure that they are acting on the client's instructions, not just those of an introducer. If they do this, they are likely to be compromising their independence. Solicitors and firms must also be careful to comply with the ban on paying or receiving referral fees.

Cases we have received have included allegations of:

- paying prohibited referral fees
- acting on the instructions of a referrer without confirming them with the client
- taking cases forward without the client's authority
- under-settling cases.

Holiday sickness

Claims for compensation for food poisoning by tourists have quadrupled in the past four years, according to the Association of British Travel Agents (ABTA). One travel firm has reported receiving 15 times more claims in the past 12 months.³⁶

It has been suggested that holidaymakers are being encouraged to make unjustified claims. There have been reports of:

- people coaching holidaymakers to make claims³⁷
- improper advertising for claims services
- paying prohibited referral fees
- cold calling.³⁸

We are investigating multiple allegations in relation to these cases. Where we find misconduct, we will be taking action in the public interest. There is also the possibility of criminal prosecutions in some cases where claims are found to be fraudulent.³⁹

This must be balanced with the recognition that people must be able to properly bring a claim if they have suffered personal injury or harm.

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It is important that the personal injury market is working in the public interest. That means making sure solicitors work to high standards, within a competitive sector, where people can easily access legal services.

Crispin Passmore, Executive
Director of Policy



What solicitors and firms can do

Solicitors must be able to take cases forward fearlessly and effectively. But cases must be brought honestly.

Steps solicitors and firms can take include:

- reading our [Warning Notice on risk factors in personal injury claims](#)
- reading our guidance note on dealing with claims for mis-sold payment protection insurance
- reading our paper on [balancing duties in litigation](#)
- making sure that instructions are those of the client, not the introducer
- making sure that they have the client's authority to bring the claim
- not allowing anyone to cold call potential clients
- not paying or receiving prohibited referral fees.

CASE STUDY

Ban for pursuing cases against client instructions

An employee (a clerk) of a personal injury firm was responsible for completing claim notification forms and communicating with third party insurers. In over 20 cases, the clerk took cases forward even though the client had given instructions that they did not want to bring a claim.

The clerk told insurers that the client would be attending medical examinations and sought to obtain pre-medical offers, despite the clients having made clear that they had cancelled the firm's instructions.

In at least one case, they received payment from the insurer, deducting a 25 percent success fee and after the event insurance costs before sending £538 to the client. The client confirmed that she had never signed any paperwork or accepted any offer, so was uncertain why she had received money.

Another client received a medical appointment, and asked the firm who gave the authority to make such an appointment since they had given no instructions. The clerk recorded the fact that the client had not instructed them and had reported their actions to us. They continued to pursue another case despite an associate solicitor in the firm reminding them that the client had asked not to be contacted again.

We investigated and decided to refer the case to the Solicitors Disciplinary Tribunal. The Tribunal found that the clerk had made misleading representations to insurers, and had acted without integrity, and decided to issue an order under section 43 of the Solicitors Act 1974 barring them from working for a law firm again.

What we are doing

Regulatory reform

We are continuing to reform our regulation to make sure it meets our modern approach while remaining effective. We aim to help everyone we regulate understand the standards that apply to them in a legal market that is becoming more flexible and diverse.

In autumn 2017, we will be consulting on a new enforcement strategy. This will provide a clear framework, setting out the factors we are likely to take into account when considering taking regulatory action.

Guidance

We have published a paper on the importance of [balancing duties in litigation](#). This paper is intended as an approachable guide to the ways in which solicitors can recognise situations when their duties conflict.

We will be publishing new information on personal injury and payment protection insurance claims in due course.

Taking action in the public interest

We are investigating multiple allegations about the conduct of firms involved in payment protection insurance and personal injury, including holiday sickness claims.

Where solicitors do not comply with their professional obligations, we will investigate and take action as appropriate. Solicitors who act dishonestly can expect us to take disciplinary action, and for their case to be referred to the Solicitors Disciplinary Tribunal.

CASE STUDY

Advertising Standards Agency finding against claims management company

A claims management company broadcast an advert for its services in handling payment protection insurance claims. The advert featured a ticking clock with rapidly turning hands, with the assertion that making a claim took excessive time for consumers.

The Advertising Standards Agency considered that the advert gave a misleading impression of the difficulty involved in making a claim, in order to induce consumers to pay fees to the company rather than filing in the claim themselves. As such, it was ruled that the advert should not be broadcast again.

Diversity in the
profession

A diverse and inclusive profession benefits both law firms and those who use legal services.

Why this risk matters

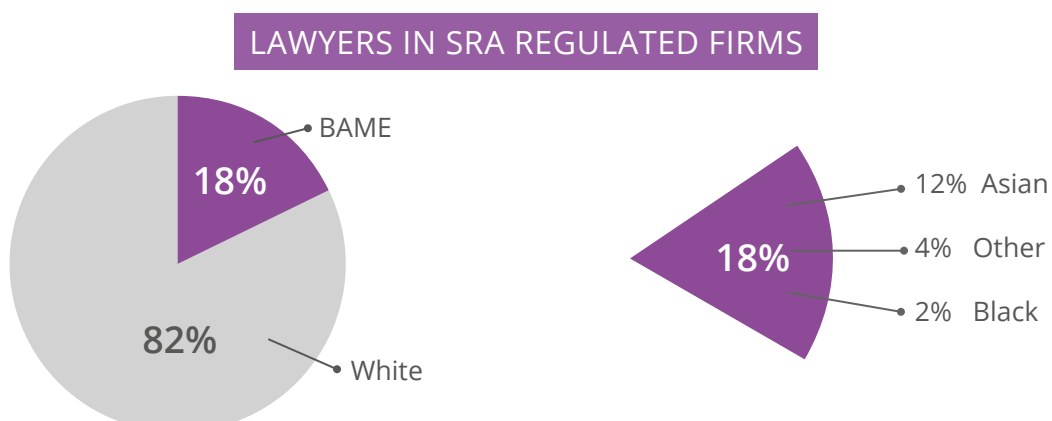
A diverse legal market encourages:

- high standards – allowing the most talented people to become solicitors and progress in their careers
- the effective administration of justice – a diversity of views and approaches supports an independent and effective justice system
- improved access to services – some people may be more likely to seek legal advice if they share some social or cultural characteristics with solicitors

Diversity also makes good business sense for law firms. The individuals and small businesses that need legal help are becoming increasingly diverse. They are likely to expect to see this reflected in the service providers they choose. Also, to retain a strong legal workforce in an increasingly diverse labour market, firms must demonstrate that they respect and support the values of their staff.

Trends

We know that diversity in the profession is improving. Lawyers who are black and minority ethnic (BAME) now make up 18% of the legal workforce in SRA regulated firms.



However, there is still some way to go with both recruitment and career progression. The proportions of female and black, Asian and minority ethnic solicitors are not equally distributed in different areas of the profession.⁴⁰

Women now make up 47 percent of all solicitors and are the majority owners of a third of all law firms in England and Wales.

However they are more likely to work in lower paid areas of work, such as family and immigration law and are less likely to work in corporate law. And, the number of women and black, Asian and minority ethnic solicitors progressing to senior roles does not reflect those doing well in their legal education or entering the profession.

CASE STUDY

Recognising unconscious bias

One firm sent a range of unconscious bias tests to all of their staff. The tests showed individuals what their preferences and biases were on subjects such as gender, race and disability.

The firm did not collect the data or monitor who took these tests. It was simply an opportunity to show that everyone has bias and that recognising this bias is the key to changing behaviour.

What solicitors and firms can do

Many law firms place equality, diversity and inclusion as a priority. However, law firms can do more to embed these into their culture so that everyone has the opportunity to progress in their legal career.

This does not have to take a great deal of time or expense. Ultimately a law firm's attitude is the most important influence on its success and progress.

Actions that firms can take include:

- creating an inclusive culture where individuals and groups are valued, respected and supported
- making sure that each person has the chance to reach their full potential, for example by creating mentoring, coaching and sponsorship programmes
- embedding equality, diversity and inclusion in the workplace by having regular training, and considering them in all policies and daily work
- encouraging staff to respond to our [biennial diversity survey](#)
- [joining our virtual reference group](#) and giving us your views on our ideas and work
- considering getting involved in initiatives such as the [Legal Social Mobility Partnership](#)
- considering using benchmarks to assess diversity performance by comparing your firm with the rest of the profession⁴¹
- connecting with support networks, such as the Black Solicitors Network, the Society of Asian Lawyers or Stonewall⁴²
- reading our information on how to help with [promoting diversity](#) and [promoting a transgender inclusive workplace](#).

What we are doing

We commissioned research that uses our data to look at the career progression of female, black, Asian and minority ethnic solicitors. This will help us understand how their representation in senior roles can be improved.

We also completed a study where we visited firms to find out how they promote equality, diversity and inclusion. Early findings suggest that there are improvements and good practice among many firms. But, there is still a way to go before everyone has an equal chance of progressing in any area of work they choose.

We are committed to promoting good practice in equality and diversity in all our work. We regularly support, attend and promote professional and community events, such as the Pride parades and events that promote diversity and [wellbeing](#) for all solicitors. We also sponsor the UK's [Diversity Legal Awards](#).

CASE STUDY

Working flexibly benefits staff and clients

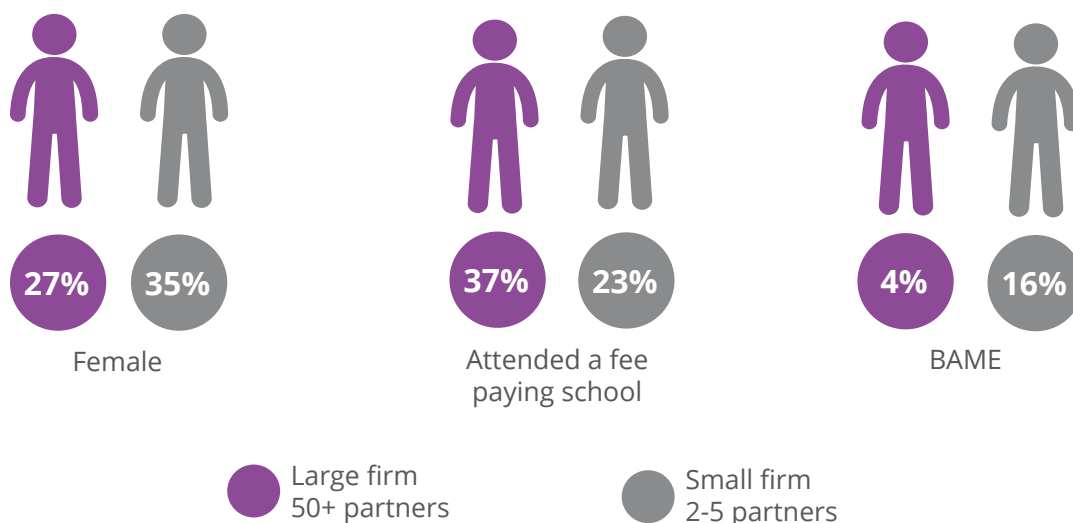
Several firms in our thematic review told us about the benefits of flexible working:

"We changed the culture by shifting the onus. We began by assuming all flexible working requests could be agreed. Managers had to prove why flexible working could not work."

"The benefits are that you retain a greater number of people, especially those returning from maternity leave. It helps you attract staff and gives rise to continuity as staff stay and therefore clients deal with the same individuals that understand their business."

"It gives employees freedom and as a result you get more out of motivated and engaged staff."

PARTNERS



Sources for diversity infographics: [SRA Diversity Toolkit, 2016](#)

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It is important that we have a truly diverse profession, attracting the best talent and reflecting the community it serves. We want to understand how the profession is changing and any barriers to progression. So we have made changes to our forthcoming 2017 firm diversity data collection exercise, adding in a new question about transgender that provides an option for solicitors who do not identify exclusively as male or female.

Jane Malcolm, SRA Executive Director



CASE STUDY

Using contextual recruitment to widen access to the profession

Contextual recruitment uses various tracking systems and algorithms to identify candidates' social background, using indicators such as their school postcode.

Candidates also complete a separate set of voluntary social background questions, for example whether they:

- are the first generation to go to university
- had free school dinners
- had to work during their time at university.

All this information produces a contextual flag or premium rating for each candidate.

We found that one firm takes this flag into account when they have two candidates who are more or less identical. They have also changed their interview-based recruitment process to one which now includes case studies and a presentation. They feel this gives candidates an opportunity to show their skills.

CASE STUDY

Using technology to remove bias

One large firm has introduced an automated work allocation programme, so that senior partners no longer decide the files that junior lawyers are given. This removes the chance of personal favouritism, which might have affected the development and opportunities given to junior lawyers.

On the horizon

We will introduce the Solicitors Qualifying Examination, a common assessment for all would-be solicitors, not before 2020. We believe this will help improve the diversity of the profession and widen access.⁴³ By validating different routes to qualifying, such as apprenticeships, it will offer more opportunities to become a solicitor.

We will also introduce an Impact Evaluation Framework that will allow us to measure the impact of our regulatory reforms. It will consider the impact on the public, the people we regulate and the wider market. It will also look at how our reforms have impacted the profession.

The Legal Services Consumer Panel recommended that regulators:

- help black, Asian and minority ethnic consumers to feel more confident in their lawyer by helping everyone to understand the quality of service they can expect
- work towards price transparency, given the limited availability of fixed fees in the areas of law black, Asian and minority ethnic groups are more likely to need.

Our reforms will help address these recommendations. For example, we will develop the Legal Choices website and our law firm search tool to improve the information available to consumers. We are also considering the types of information that we and firms might publish in the future.

Endnotes

1. [Individual consumer legal needs](#), Legal Services Board, 2016
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3. The groups that were most likely to experience a high number of legal problems were those with a limiting illness or disability, were unemployed, a lone parent with dependent children, living in a household with an annual income below £15,000 or living in rented accommodation ([Findings from the Legal Problem and Resolution Survey, 2014-15](#); MOJ, 2017).
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5. The legal needs of small businesses, Kingston University for the Legal Services Board, 2015
6. Legal services market study: Final report, Competition and Markets Authority, 2016
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8. Brave New World, LexisNexis Bellwether Report: 2014, LexisNexis, 2014
9. Qualitative Research Exploring Experiences and Perception of Unbundled Legal Services, Legal Services Board, 2015; Affordable legal services review, The Law Society, 2015
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11. The Legal Ombudsman has more detailed information about complaint trends on its website www.legalombudsman.org.uk
12. Number of property transactions completed in the UK with value of £40,000 or above, HM Revenue and Customs, 2017
13. [Providing services to people who are vulnerable](#), SRA, 2016
14. Outcome 1.9: clients are informed in writing at the outset of their matter of their right to complain and how complaints can be made; Outcome 1.10: clients are informed in writing, both at the time of engagement and at the conclusion of your complaints procedure, of their right to complain to the Legal Ombudsman, the time frame for doing so and full details of how to contact the Legal Ombudsman; Outcome 1.11: clients' complaints are dealt with promptly, fairly, openly and effectively.
15. www.legalombudsman.org.uk
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18. [Cybersecurity is every executive's job](#), *Harvard Business Review*, 2016
19. [Outcome 4.1, SRA Code of Conduct, 2011](#)
20. [IT security: keeping information and money safe](#), SRA, 2016
21. [Woman jailed for five years for £500k fraud, Metropolitan Police, 2017](#). Individual referred to is Oonagh Grant, multiple investigations ongoing.
22. [Hot topics: cybercrime](#), SRA, 2015

23. The average house in the UK cost [£215,847 in January 2017](#), a 6.5 percent rise compared to the previous year.
24. [Hot topics: bogus firms, SRA](#)
25. SDT vs Clyde & Co, 2017
26. 'National Strategic Assessment of Serious and Organised Crime 2016', National Crime Agency, 2016. Online at: <http://www.nationalcrimeagency.gov.uk/publications/731-national-strategic-assessment-of-serious-and-organised-crime-2016/file>
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 'Legal basis for reporting SARs', NCA, Online at: <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/legal-basis-for-reporting>
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34. An effective system to combat money laundering and terrorist financing', Financial Action Task Force, online at: <http://www.fatf-gafi.org/publications/mutualevaluations/documents/effectiveness.html>
35. 'UK tightens defences against money laundering', Gov.uk, online at: <https://www.gov.uk/government/news/uk-tightens-defences-against-money-laundering>
36. [UK holiday fraudsters could face jail, BBC, 2017](#)
37. [Holiday sickness claims soar, International Travel and Health Insurance Journal, 2017](#)
38. [The fraud culture thriving on holiday sickness claims, ABTA, 2017](#)
39. [The fraud culture thriving on holiday sickness claims, ABTA, 2017](#)
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41. For example, our [diversity toolkit](#), the [Stonewall workplace equality index](#), the [Social Mobility employer index](#), or the Government's [Equality and diversity – external benchmarks](#)
42. A list of networking groups can be found on the [Law Society website](#).
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