

Supporting the COLP and COFA

The Roles of COLP and COFA

The twin roles of COLP (Compliance Officer for Legal Practice) and COFA (Compliance Officer for Finance and Administration) are central to all law firms' compliance responsibilities so far as the SRA are concerned. Their responsibilities are set out in paragraphs 9.1 and 9.2 of the [SRA Code of Conduct for Firms](#). The COLP will shoulder the main responsibility for compliance issues within law firms, other than for Accounts Rules compliance which will fall instead to the COFA. In most smaller firms, however, and in sole practices most obviously, the two roles are likely to be, or will have to be, combined.

The COLP and COFA will first have to ensure that effective compliance arrangements are in place within their firm, and then continue to monitor their operation. A note must then be kept of all the breaches in the firm's operations for which they are responsible, with a duty to report "promptly" to the SRA all those of a serious nature.

It is the duty of the COLP and COFA to ensure compliance with the SRA Standards and Regulations and so it is **essential they have access to the appropriate resources and the necessary practical support**.

As a service focused on the compliance responsibilities of all solicitors, and law firms in general, it follows that the majority of the materials that we make available to subscribers to the InfoHub will be of benefit to COLPs and COFAs in understanding what is required of them by the SRA and help them to get to grips with the many issues that might arise from the day-to-day activities of the firm.

Terms of Reference

If you are looking to become an Infolegal subscriber to assist you to address your regulatory requirements your first step may well be to read our advice on the terms of reference for both roles. You might then choose to supplement the job descriptions provided by viewing our training modules on both of the roles.

An Infolegal subscription will open up a range of view-as-you-wish training videos on a range of different compliance topics, and our separate presentations on both roles will explain the SRA's views as to why the need for COLPs and COFAs first arose, and then how they expect those nominated to address their responsibilities.

Under the legislation that governs the compliance activities of all law firms the SRA itself needs to account to its supervisor – the Legal Services Board – for both its rules and requirements themselves and how effectively they are being operated. The view was therefore often expressed in the earlier days of the roles that, fraud and theft aside, “the sin of not reporting is probably greater than the sin to be reported”, and this seems still to hold true today. The effective operation of both roles is therefore of vital importance to the entire SRA supervisory regime and disciplinary measures are often taken when either COLP or COFA have failed to bring material facts to its attention.

The Reporting Responsibilities

Further guidance on the roles will then be found in our guidance notes on both roles. The Infolegal website will provide you with a series of guidance notes which address the more important wider compliance issues to be addressed, and then a much longer series of single topic factsheets.

Suppose, for example, that a client has complained that they believe that the firm should not have acted for them at all as they have now discovered that their opponent in a litigation case was also a client of the firm in another matter, and so there appears to them to have been a conflict of interests.

As COLP you would have to take a view as to whether the Codes of Conduct now in place would suggest that there was indeed a conflict situation in this matter, and so would find our conflicts factsheet helpful in this regard. If such an error has been made you would then have to take a view as to whether the breach was sufficiently “serious” so as to oblige you to report it to the SRA. You would also be expected to ensure that any possible remedial action should be taken as soon as possible to minimise the harm caused if, indeed, a breach had occurred.

A further benefit of your Infolegal subscription is the ability to download our guidance for your records to justify any decision not to report. We are also pleased to provide personal assistance in your deliberations, our rule of thumb being that we are pleased to respond to a reasonable number of compliance enquiries from each subscriber in every year that they remain as such. If the enquiry can be responded to within the period of 30 minutes, we would not raise a supplementary charge for doing so, but if it would take longer than that to do so, or if a firm directs a considerable number of compliance enquiries to us, we will then raise supplementary charges based on a discounted subscribers’ rate of £125/hour + VAT.

Accounts Rules Breaches

The COLP in a firm has a wider remit than the COFA in that they have responsibility for all of the statutory and regulatory issues that might arise within their firm. The COFA’s responsibilities may be more limited in their scope, but clearly the correct handling of client funds and the proper maintenance of the client account in particular, are critical to the compliant functioning of all firms conducting such services. A further challenge for the COFA is that whereas the COLP will have responsibility for the provision of the firm’s legal services, and so will be dealing with issues that are readily familiar with them in most cases, the COFA

will not necessarily have the same grip on the operation of the SRA Accounts Rules if they have always relied upon their employed Finance Directors or Cashiers to ensure compliance.

Although it is possible to nominate an employee with a financial role as the firm's COFA this may well place them in an invidious position and in the great majority of firms the preference will be for a partner or director to be expected to shoulder this responsibility. The newly appointed COFA might therefore find particular benefits in reading through our explanation of the correct operation of the Accounts Rules and how the COFA might work with their Accounts Department or out of house accounting service to meet their responsibilities in this regard.

We again provide not just a clear explanation of the key requirements of the Accounts Rules, but also more detailed explanations of likely breaches and an accompanying training presentation for the COFA and others on ensuring that Accounts Rules breaches are avoided.

Other Support for the COLP and COFA

Whilst a subscription to the Infolegal InfoHub will give all COLPs and COFAs access to the wide range of information including the draft office manual, guidance notes, precedents, forms, analysis and recording resources and online training, this may not be enough.

Those who have specific problems, just starting out as the COLP or COFA in your firm and are feeling unsure about the nature of your role, or who require practical assistance in setting up and then managing the procedures and processes necessary to undertake their role, may feel that access to our consultancy services is a more practical and cost-effective way to address issues within the firm.

For those requiring more hands-on help, Infolegal's directors and consultants can bring a wealth experience and knowledge to compliance issues generally and the work of the COLP and COFA in particular. The services we can provide include:

- a "gap analysis" or compliance review to assist you in working out where the firm is falling short in compliance terms and where effort needs to be focused. We find that this is a very useful tool in ensuring that the firm does not spend money putting right things that are already satisfactory;
- incorporating our policies and processes into the firm's existing processes so as to ensure that the firm has a comprehensive procedures manual;
- integrating, where relevant, the procedures into our own cloud-based regulatory compliance system;
- ensuring that everyone in the firm is au fait with the changes that have been implemented, why they are necessary and the impact they will have upon other personnel within the firm;
- where appropriate, advising the firm on the benefits of moving to a different practice structure,

- advising on systems for dealing with AML, cybersecurity, Lexcel or Legal Aid standards;
- guidance on carrying out regular compliance audits;
- ongoing support and advice on specific issues that arise.

To find out more about how Infolegal can assist you and your firm with COLP/COFA related issues, please contact us on enquiries@infolegal.co.uk, phone us on 0203 371 1064 or complete the online enquiry form that you will find on our website.