

Compliance Audits

Introduction

Ensuring that your firm is compliant in relation to its regulatory and risk management requirements is vital. However, the frequently changing nature of those requirements means that ensuring that your policies, processes and procedures are up-to-date and watertight is not always easy.

The Solicitors Regulation Authority (SRA) requires that you put in place effective processes and procedures and be in a position to demonstrate how you are addressing regulatory requirements. Paragraph 2.1 of the SRA Code of Conduct for Firms (“the Code for Firms”), for example, requires that firms “have effective governance structures, arrangements, systems and controls in place” to ensure they “comply with all the SRA’s regulatory arrangements, as well as with other regulatory and legislative requirements” which apply to them and that the firm’s managers and employees “comply with the SRA’s regulatory arrangements which apply to them”.

Moreover, paragraph 2.2 of the Code for Firms requires that firms “keep and maintain records to demonstrate compliance with [their] obligations under the SRA’s regulatory arrangements” meaning that there should be a clear system in place and an audit trail that the SRA can follow should the need arise.

For this reason, firms should have in place a system that allows them to monitor, analyse and assess the risks that they face on continuing basis and this needs to form a key part of their management systems.

Given the importance of the topic, our monthly newsletters often provide updating points and reminders. However, we are also often called upon to provide further support to firms to provide advice and assistance on particular compliance issues as and when they arise. Our policy here is that if we can respond to an occasional enquiry within 30 minutes, we are happy to do so as part of our subscriber services, but if longer than this is required, or more frequent requests are made, we will then raise supplemental charges at our discounted subscriber rate of £125/hour + VAT.

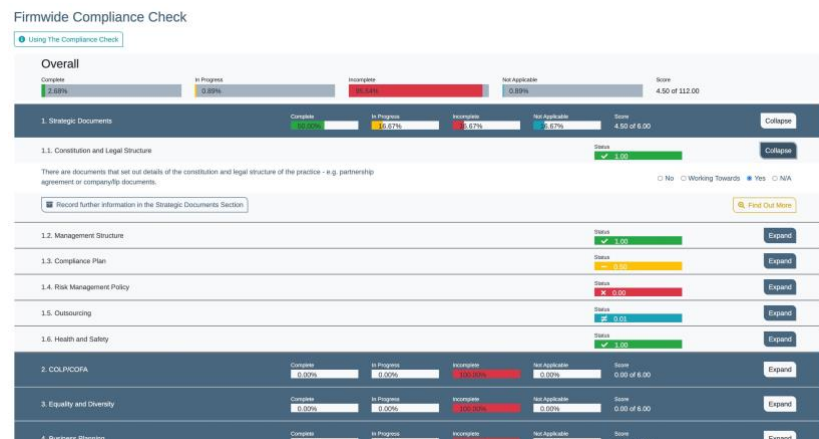
DIY Compliance Audits

It is not always necessary for firms who are subscribers to the Infolegal InfoHub to use Infolegal to carry out a compliance audit. Many aspects of such an audit can be undertaken by the firm itself using the Infolegal InfoHub and the resources and materials that it makes

available to them. For example, the draft procedures manual contains all of the necessary processes and policies, guides, precedents, training modules that the firm would require and the cloud-based firm management function will allow them not only to record their version of that manual (or indeed their own bespoke manual if they use a different version) but will also allow them to keep separate records of their plans, policies, strategic documents and a range of other information designed to enable them to achieve regulatory compliance.

In addition, the InfoHub features a unique and comprehensive Regulatory Management section which includes within it a cloud-based compliance checking programme. This will

allow the firm to carry out a 112-point compliance check to ascertain where the firm is compliant and where gaps still exist. This covers the vast majority of regulatory issues that the firm would need to consider including those in relation to strategic documents, equality and diversity, financial management, supervision and risk management, data protection and AML, to name but a few.



The compliance checking system uses a “traffic light” system to show how close the firm is to being fully compliant the firm and where attention needs to be concentrated. The systems even provides full explanations of what is required for each of the 112 points, where guidance on that particular aspect is to be found on the InfoHub and guidance on how to address that particular aspect.

Compliance Audits by Infolegal

However, there may be times when the firm either does not wish to carry out its own audit or does not have the resources to do so. This may be because the firm is simply too busy or because it wants an independent view to be taken, perhaps ahead of an SRA inspection. In these circumstances Infolegal’s team of specialist advisers can assist with this by undertaking a compliance audit designed to highlight any gaps or shortfalls in the firm’s regulatory processes and then providing the firm with practical and effective solutions to deal with those shortfalls.

To achieve this Infolegal will identify precisely where the firm needs to make improvements to its processes, policies and procedures and then create and put in place those systems and procedures needed to ensure that the firm’s existing structures are augmented and brought up to the level of the current SRA Standards and Regulations.

Having done so, we will then either show the firm how they can use the InfoHub to maintain their own processes or schedule follow up reviews to ensure that processes continue to be current and effective.

Because this is offered as a bespoke service designed to address precisely the issues that affect your firm, we can even build into the audit a review of, or support for, your COLP and COFA systems, carry out a firm or department -wide file review, look in detail at client care processes, address issues surrounding data protection and look in detail at your AML risk and systems.

Whether it be compliance with the SRA Standards and Regulations, the Money Laundering Regulations, equality and diversity legislation or the provisions of the data protection legislation, Infolegal can assist your firm. Our services can be provided on a one-off basis to look at the extent of compliance within your firm at a fixed moment or can be on an ongoing retainer-basis so as to ensure that your firm continues to be compliant at all times. For the latter we would simply agree with you a quarterly charge and then ensure that we carry out a regular review. This would include increased liaison with your COLP and COFA to ensure that any issues they might have could be dealt with quickly and easily.

The Topics we Cover

Whatever the type or size of firm, Infolegal can assist you in identifying your compliance requirements. Our directors and consultants can undertake a comprehensive review of the compliance risks that your firm faces, and report to the firm on the steps that it believes need to be taken in order to achieve full compliance. This may involve putting right defects in existing systems or alternatively putting in place brand new systems, policies and procedures designed to address the specific needs of your firm.

Among the areas that Infolegal cover are:

- strategic issues such as constitution, legal structure, compliance plan, outsourcing and health and safety,
- the duties, authority and training of the COLP and COFA,
- equality and diversity,
- business and strategic planning and management including, where relevant, social responsibility planning,
- publicity and promotion, including issues relating to transparency,
- financial management, including financial control, handling outstanding balances and gifts,
- information and cybersecurity, including policies for matters such as email use, passwords, social media and website privacy,

- people management including recruitment, development, whistle blowing and exit procedures,
- supervision and risk management, including key dates, conflict checks, file reviews and annual risk reviews,
- clients and client care, including complaint handling and client satisfaction surveys,
- case and file management including undertakings, file progression and the use of external experts
- data protection and privacy,
- anti-money laundering and financial crime including fraud prevention, anti-bribery, anti-tax evasion and sanctions reporting to OFSI,
- Lexcel, CQS and SQM related issues,
- financial services and investment business,
- regulatory reporting,
- ongoing compliance monitoring and review, and
- training.

Specific Areas

Equality and diversity

The need to avoid discrimination and to encourage equality and diversity are key requirements of the SRA Standards and Regulations and are specifically referred to at Principle 6. More than almost any other, this is an area of regulation where simply having the right words in the practice manual will not be sufficient to ensure compliance.

For firms to become, and remain, compliant steps need to be taken to train personnel (also a specific requirement of the Law Society's Lexcel standard) and the firm needs to ensure that it has in place, and observes, policies which are appropriate to the size and complexity of the practice. Thus, it is not simply enough that the firm has a policy saying that it does not discriminate or that it provides everyone with an equal opportunity. It must consider issues such as the physical accessibility for staff and clients to its premises, policies that address home working, how it recruits from sectors that may be under-represented in its work force and in many cases have a policy that seeks to eradicate unconscious bias or harassment in the workplace.

In addition, firms need to be aware of, and be able to comply with, where necessary, the requirements as to diversity data. This is a requirement imposed upon firms by the SRA and which is dealt with in more detail on the Infolegal website.

Infolegal can assist firms in all aspects of equality and diversity from putting in place policies through to training and implementation. Compliance Hub members can also access factsheets and draft policies.

Information Security and Data Protection

Keeping data and information confidential is core to the provision of any professional service, and to legal services more so than any other. The SRA Standards and Regulations place an obligation on all practices to maintain the confidentiality of client information and firms must monitor the arrangements for maintaining the integrity of that information.

Increasingly, firms are becoming at risk from data breaches, not only from cybercriminals but also from the lapses that can arise from the careless use of IT or the failure of the firm to have adopted sufficiently robust data controls.

Whilst having secure hardware and putting in place firewalls and software solutions is important in the fight against data loss, often it is the people in the firm who are its greatest weakness. This may simply be down to a lack of knowledge on their part as to what is required of them.

Infolegal can assist your firm in putting in place the correct policies and procedures for dealing with data and cyber security and can provide training to your staff on the key issues to be aware of.

Transparency Rules

From December 2018, all regulated law firms have been required to publish information on the prices they charge and what these cover, across a number of common services. The rules requiring this – which survived the move to the Standards and Regulations 2019 intact – are to be found in the SRA Transparency Rules.

For some time, the SRA have been carrying out a series of website reviews, asking firms to certify that their website is compliant and checking that what firms claim for their website is actually correct. The SRA plans to continue to contact firms, with disciplinary action and a potential fine of around £2,000 already levied on firms that have not complied. Even firms that do not have a website, are being required to complete an SRA questionnaire.

Firms need, therefore, to ensure that they are providing the information required by the SRA which goes beyond purely those firms undertaking work within the prescribed sectors to all firms with a website needing to make sure that they have an adequate complaints policy and display the SRA digital badge.

Infolegal has produced detailed guidance and a checklist for compliance which subscribers can access through the Infolegal InfoHub. For those who would like an independent review, Infolegal can provide this and can also supply the required wording for the various website sections for those firms that come within the definition of those needing to provide costs information and details of the work undertaken.

SRA Regulatory Issues

Compliance with the provisions of the SRA Standards and Regulations, and in particular the two Codes of Conduct and Accounts Rules, can be a daunting task for any firm.

Infolegal can assist your firm in becoming and remaining compliant. We can either review your existing arrangements and make suggestions as to how these may be improved or alternatively start from scratch and put in place processes and policies for you to follow to ensure future compliance.

Whether it be in relation to conflict and confidentiality, retainers, referral agreements, complaints handling, accounts or any of the other SRA requirements we can advise you on what the firm needs to do in order to remain compliant and ensure that all relevant staff are trained in that which is expected of them.