

Regulatory reform programme

Consultation questionnaire form

This form is designed to be completed electronically—in MS Word. Please save it locally before and after completing it.

Simplifying compliance officer approval for small firms (1-4 managers)

Question 1

Do you agree with the SRA's proposal to introduce deemed approval for the COLP/COFA roles for sole practitioners and 1-4 manager firms?

The Legal Ombudsman agrees with this proposal and believes that it simplifies matters for firms.

Question 2

Do you believe that deemed approval of COLPs/COFAs should be limited to certain types of firms? If so, which firms and why?

Question 3

Do you believe there are certain criteria or characteristics in a prospective COLP/COFA which should require us to assess their application nonetheless? If so, which criteria or characteristics, and why?

Simplify candidate declaration and notification processes

Question 4

Do you have any views on the SRA's proposal to simplify candidate declaration and notification processes?

We support this proposal as it eases the regulatory burden.

Remove the requirement for firms to carry out reserved legal activities

Question 5

Do you agree with our proposal to simplify authorisation by removing the requirement for firms to carry out reserved legal activities?

ABS Authorisation - operational changes and improvements

Question 6

Do you agree with our proposals to simplify the authorisation process for ABSs by:

- a) removing the requirement for approval of managers in ABS corporate owners;
- b) removing the 7 day notification requirement for authorised manager or owner of an ABS
- c) revising the rules relating to reserved legal activity?

Question 7

Do you have any specific concerns regarding the SRA's proposals to simplify the authorisation process for ABSs? If so, please specify what these are.

Question 8

Do you have any specific suggestions for the further simplification or streamlining of ABS authorisation?

Changes to insolvency rules

Question 9

Do you agree with our proposal to adjust the regulations to cover the event of partnerships entering administration?

Alternatives to client accounts

Question 10

Should the SRA approve third party managed accounts?

The Legal Ombudsman firmly believes that the SRA should approve third party managed accounts. Further details on this have been provided in our answer to Question 11.

Question 11

If so,

- should these be assessed and considered by the SRA on a case by case basis, or
- should the SRA identify a minimum set of safeguards that should apply to all third party managed accounts?

We firmly believe that the SRA should approve third party managed accounts on a case by case basis. There are substantial sums of money held in some client accounts and therefore, if the account was to be transferred to a third party, it is imperative that they are adequately assessed and considered first.

The approval process by the SRA would offer protection to firms who are concerned about exposure to risk, for example, money laundering schemes, through the knowledge that the third party account was suitable and independently agreed.

To emphasise consumer protection we also suggest the development of an 'SRA check mark' to show clients that the third party accounts are authorised and approved. This will give clients independent assurance that their money is safe.

This will be new territory for both consumers and firms, so the value of visible, regulatory supervision is high.

Question 12

Are there any additional safeguards, not set out in Annex A, that you think we should consider in authorising the use of third party managed accounts?

Guidance on recording of non-material breaches

Question 13

Does the SRA's additional guidance on recording of non-material breaches provide further clarity on this requirement?

The Legal Ombudsman believes that, in the interests of client protection, breaches should still be recorded but not necessarily reported.

We are committed to learning from the complaints we receive and feeding back to the profession in order for them to improve procedures at first tier. We believe that if a firm keeps a record of any breaches, they themselves can learn from past mistakes, contributing to continuous improvement.

We support the additional guidance providing further clarity and feel it contributes to making the Code of Conduct easier for consumers to understand.

Question 14

Should the SRA also give consideration to removing the requirement for non-ABS firms to record such breaches? If so, why?

Clarification on the outsourcing of legal and operational functions

Question 15

Does the current rule in relation to outsourcing present unforeseen difficulties to firms wishing to take advantage of cloud computing options?

Question 16

Does the addition of a guidance note on Outcome 7.10 provide sufficient clarity, or should the SRA make changes to this Outcome to provide further guidance to firms?

Recording and reporting of diversity data

Question 17

Do you have any comments on the SRA's proposal to clarify the current requirements for the recording and reporting of diversity data?

Update on Apprenticeship Route to qualification

Question 18

Do you agree with our proposal to enable qualification as a solicitor through an apprenticeship route?

Fee sharing and referrals

Question 19

Do you consider that Outcome 9.6 should be retained or removed? Please give your reasons why.

The Legal Ombudsman believes that Outcome 9.6 should be retained.

We are concerned that a fee sharing arrangement for clients, particularly those facing criminal charges, may put already vulnerable people in a more difficult position. From the complaints we receive, we believe such clients are often already in a distressed state and instructing a solicitor can be perceived in some cases - as the SRA describes - as a 'distress purchase', made under pressure. The fee sharing arrangement could further compromise their ability to make a rational choice and could, in turn, be a barrier to access to justice.

On the question of the extent to which the SRA should restrict business practices, the reasons not all cases may include a referral fee are well-held, well understood and deliberate, as noted in the Consultation Paper itself. Whilst we recognise that the changing market and evolving legal landscape suggest merit in legal aid and criminal law firms adapting to business structures already seen in other fields of law, the risks at present - both operational and ethical - still outweigh the benefits, in our view.

Fee sharing and referrals

Question 20

Annex B sets out the SRA's initial assessment of the impact of the measures set out in the review:

- Is there any information, data or evidence that you can provide or direct us towards that will assist us in finalising our impact assessment?
- Do you agree with our assessment of impacts for each proposal?

We broadly agree with the assessment of impacts but note that the majority of the changes are focussed on improvements and simplification for firms. While we support the removal of unnecessary burdens on firms, you will no doubt wish to ensure that this is not at the expense of consumer protection.

Thank you for completing the **Consultation questionnaire form**.

Please save a copy of the completed form.

Please return it, along with your completed **About you form**, as an email attachment to consultations@sra.org.uk, by **11 June 2015**.

Alternatively, print the completed form and submit it by post, along with a printed copy of your **About you form**, to

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